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GENERAL LAWS

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OF

THE STATE OF IDAHO

PASSED AT THE

FIRST SESSION

OF THE

STATE LEGISLATURE,

CONVENED ON THE

EIGHTH DAY OF DECEMBER, A. D. 1890, AND ADJOURNED ON THE
FOURTEENTH DAY OF MARCH, A. D. 1891

AT

BOISE CITY.

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GENERAL LAWS OF THE STATE OF IDAHO

LEGISLATIVE EXPENSES—APPROPRIATION.

AN ACT

TO PROVIDE FOR THE PAYMENT OF THE INCIDENTAL EXPENSES
INCURRED DURING THE FIRST SESSION OF THE LEGISLATURE.

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

WHEREAS, an emergency exists requiring that this act shall take effect before the expiration of sixty days from and after the end of the session, in order to meet the expenses of the present session of the legislature as they accrue, this act shall take effect and be in force from and after its passage and approval by the Governor.

SECTION 1. That the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the general fund of the State treasury out of any money not otherwise appropriated, for the payment of the incidental expenses of both houses of the Legislature.

SEC. 2. All accounts for any expenses contracted by either house shall have attached thereto an affidavit of the claimant that the account is just and true, and that the several charges therein made are reasonable and no more than is customary to be charged private individuals, and that no part of the same has been paid except as

therein stated, and shall be examined by the standing committee of the house appointed for that purpose, to which such expense is chargeable, and certified by the chairman of said committee as being correct, to the State Auditor. Each account must be certified by the presiding officers of the respective houses as being contracted in conformity with a resolution duly offered and adopted; and, upon the examination and approval of the State board of examiners, the State Auditor is hereby authorized to draw his warrant for the amount so certified upon the general fund of the State.

Approved December 20, 1890.

DISTRICT COURTS.

AN ACT

TO PROVIDE FOR FIXING THE TERMS OF THE DISTRICT COURTS OF THE SEVERAL DISTRICTS OF THE STATE OF IDAHO, AND TO ADD THE SECTIONS OF THIS ACT TO CHAPTER THREE OF TITLE ONE OF THE CODE OF CIVIL PROCEDURE OF IDAHO AS SECTIONS 3834 AND 3835.

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

SECTION 1. (Sec. 3834.)—The Judge of the district court of each of the judicial districts of the State must, annually, fix the time for holding the district court in the several counties of his district by an order filed and entered by the clerk in each county of his district, and said order must be published two consecutive weeks in a newspaper published in his district.

SEC. 2. (Sec. 3835.)—A special term of the district court may be held in any county, by an order of the judge of the district fixing the time of holding the same, and such order must be published for two consecutive weeks in some newspaper printed in the county in which the special term is to be held, and in case no newspaper is printed in the county, then in some newspaper printed in the State nearest to the county in which said special term is to be held.

The terms of court herein mentioned shall be held at the county seat of the respective counties.

SEC. 3. Whereas, a large amount of civil and criminal business is now pending in the several district courts of the

State of Idaho, and there is no provision of law now existing whereby the said courts may be convened; therefore, an emergency exists requiring this act to be in force immediately upon its approval by the Governor.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved December 20, 1890.

LEGISLATIVE EMPLOYEES—NUMBER.

AN ACT

FIXING THE NUMBER OF OFFICERS AND EMPLOYEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, TO DEFINE THEIR DUTIES AND ESTABLISH THEIR PAY.

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

SECTION 1. The officers and employees of the senate shall consist of one secretary, one assistant secretary, one engrossing clerk, one assistant engrossing clerk, one enrolling clerk, one assistant enrolling clerk, one journal clerk, one chaplain, one sergeant-at-arms, one committee clerk, two pages, one doorkeeper and one janitor.

SEC. 2. The officers and employees of the house of representatives shall consist of one chief clerk, one assistant clerk, one enrolling clerk, one assistant enrolling clerk, one engrossing clerk, one assistant engrossing clerk, one chaplain, one sergeant-at-arms, one doorkeeper, two pages, one committee clerk and one janitor.

SEC. 3. There shall be paid to the several officers and employees named in this act for all services rendered by them under the provisions of this act, the following sums, and no more:

The secretary of the senate, seven (7) dollars per day.

The assistant secretary of the senate, six (6) dollars per day.

The chief clerk of the house, seven (7) dollars per day.

The assistant chief clerk of the house, six (6) dollars per day.

All other clerks of the two houses shall receive five (5) dollars per day.

The sergeant-at-arms of the senate and the sergeant-at-arms of the house, each, six (6) dollars per day.

The doorkeepers of the senate and house, each, five (5) dollars per day.

The messengers, each, three (3) dollars per day.

The pages, each, three (3) dollars per day.

The janitors, each, four (4) dollars per day.

The journal clerks, each, (5) dollars per day.

The chaplains, each, two (2) dollars per day.

SEC. 4. It shall be the duty of the secretary of the senate to attend each day, call the roll, read the journals and bills, copy or to take charge of and superintend all copying necessary to be done for the senate.

It shall be the duty of the chief clerk of the house to attend each day, to call the roll, read the journal and bills, and to copy or to take charge of and superintend all copying necessary to be done for the house.

It shall be the duty of the assistant secretary of the senate and the assistant clerk of the house to take charge of all bills, petitions and other papers presented to their respective houses, to file and enter the same in the books provided for that purpose, and perform such other duties as may be directed by the secretary of the senate and chief clerk of the house.

It shall furthermore be the duty of the secretary of the senate and the chief clerk of the house to keep a correct record of the proceedings of each day for the purpose of having such proceedings entered in the journal by the journal clerks of their respective houses.

It shall be the duty of the journal clerk of the senate to record each day's proceedings in the journal, from which they shall be read by the secretary each day of meeting in order that they may be authenticated by the signature of the president.

It shall be the duty of the journal clerk of the house to perform all similar duties for the house which are required to be performed by the journal clerk of the senate.

It shall be the duty of the sergeant-at-arms of the senate and the sergeant-at-arms of the house to give a general supervision, under the direction of the presiding officers, of the senate and house chambers, with the rooms attached; to attend during the sittings of their respective bodies, execute their commands, together with all such proceedings issued by authority thereof, as shall be directed to them by their presiding officers.

They shall receive no other compensation for their ser-

vices beyond their per diem, except actual expenses incurred in arrests made by them, and for traveling expenses for themselves or special messenger, which expenses so incurred, shall be paid from the contingent fund of their respective houses: *Provided*, That no messenger shall be employed by any officer of either house unless expressly authorized so to do by the house of which he is an officer.

They shall have power to appoint a deputy each on a vote of their respective houses.

It shall be the duty of the deputy sergeant-at-arms of each house to assist the sergeant-at-arms in the performance of his duties.

It shall be the duty of the doorkeeper of each house to prohibit all persons, except members of the legislature and State officers, employees and reporters and persons who may on invitation be entitled to seats, from entering within the bar of the house of which he is doorkeeper, unless upon invitation, and to arrest for contempt all persons outside of the bar or in the gallery found engaged in loud conversation, or otherwise making a noise, to the disturbance of their respective houses.

It shall be the duty of the janitors to keep the furniture of their respective houses in good order, to clean and light lamps and perform such other duties as they may be directed to do, by the president of the senate or the speaker of the house.

It shall be the duty of the chaplains to open the proceedings in their respective houses with prayer.

SEC. 5. It shall be the duty of the secretary of the senate and chief clerk of the house, at the close of each session of the legislature, to mark, label and arrange all bills and papers belonging to the archives of their respective houses, and to deliver the same, together with all the books of both houses, to the Secretary of State, who shall certify to the reception of the same; and upon the production of said certificate to the Auditor of State, the Auditor is authorized and directed to draw his warrant upon the Treasurer in favor of the above named parties for the sum of twenty-five dollars each, and the Treasurer is authorized to pay the same out of any money in the general fund not otherwise appropriated.

SEC. 6. All officers and employees of the senate and house provided for in this act shall be elected by the senate and house, respectively.

SEC. 7. The president of the senate and the speaker of the house may direct the assistant enrolling clerk and the assistant engrossing clerk to aid in copying bills, messages or other lengthy documents, when they are not otherwise employed.

SEC. 8. Any of the officers and employees mentioned in this act may be removed by a two-thirds vote of the members of the house in which they are connected for failure to perform the duties imposed upon them by this act, or for incompetency, or for conduct which shall by each house be deemed improper.

SEC. 9. No additional number of officers or employees of the senate or house shall be elected or appointed unless on a two-thirds vote.

SEC. 10. The per diem of all officers fixed by this act shall date from the day on which they shall have been elected and qualified.

SEC. 11. Nothing in this act shall be construed so as to affect the tenure of office of any attache of this legislature herein named and appointed prior to the passage of this act.

SEC. 12. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 13. Whereas an emergency exists therefor, this act shall take effect and be in force from and after its passage.

Approved December 20, 1890.

APPROPRIATION—LEGISLATIVE EXPENSES.

AN ACT

TO PROVIDE FOR THE PAYMENT OF OFFICERS AND MEMBERS AND EMPLOYEES OF THE FIRST SESSION OF THE LEGISLATURE.

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

WHEREAS, an emergency exists requiring that this act shall take effect before the expiration of sixty days from and after the end of the session in order to meet the expenses of the present session of the legislature as they accrue, this act shall take effect and be in force from and after its passage and approval by the Governor.

SECTION 1. That there is hereby appropriated out of

any money in the general fund of the treasury not otherwise appropriated the sum of twenty-five thousand dollars, or so much thereof as may be necessary, for the payment of officers, members and employees of the first session of the legislature.

SEC. 2. The State Auditor is hereby authorized and required, upon the presentation to him of the certificate of the presiding officer of the house of which the person therein named is a member or attache, stating that the party mentioned in said certificate is entitled to compensation as per diem and mileage to the amount therein stated, to draw his warrant on the general fund for the amount so certified as due.

SEC. 3. Each member of the legislature shall receive for his services the sum of five dollars per day from the commencement of the session; but such pay shall not exceed for each member, except the presiding officers, in the aggregate three hundred dollars for per diem allowances in any one session.

Approved December 20, 1890.

COUNTY OFFICERS—APPOINTMENT.

AN ACT

AUTHORIZING THE GOVERNOR TO APPOINT COUNTY OFFICERS IN ALL COUNTIES IN THE STATE WHERE THERE HAS BEEN A FAILURE TO QUALIFY UNDER THE PROVISIONS OF SECTION TWELVE OF ARTICLE TWENTY-ONE OF THE CONSTITUTION OF THE STATE OF IDAHO, ON THE PART OF THE PERSONS ELECTED TO SAID OFFICES AT THE ELECTION HELD ON THE FIRST DAY OF OCTOBER, A. D. 1890.

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

SECTION 1. The Governor is hereby authorized and empowered to appoint suitable persons to fill all county offices in all counties in the State where there has been a failure to qualify under the provisions of section twelve of article twenty-one of the Constitution of the State of Idaho, on the part of persons elected to said offices at the election held on the first day of October, A. D. 1890.

SEC. 2. Said officers so appointed shall hold their said offices until their successors are duly elected and qualified in such manner as may be provided by law.

10 FEES—COMMISSIONS—CAPITOL BUILDING AND GROUNDS.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 4. Whereas an emergency exists therefor, this act shall take effect and be in force from and after its passage.

Approved January 10, 1891.

FEES—COMMISSIONS.

AN ACT

TO AMEND SUBDIVISION 7, SECTION 196, OF THE REVISED STATUTES OF IDAHO.

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

SECTION 1. That subdivision seven (7) of section 196 of the Revised Statutes of Idaho be amended by adding thereto the following: *Provided*, That no fee may be exacted for the issuance of commissions issued to county officers under the provisions of an act entitled "An act authorizing the Governor to appoint county officers in all counties in the State, where there has been a failure to qualify under the provisions of section twenty-one of the Constitution of the State of Idaho, on the part of persons elected to said offices, at the election held on the first day of October, 1890."

SEC. 2. This act shall be in force from and after its passage, urgency existing therefor.

Approved January 14, 1891.

CAPITOL BUILDING AND GROUNDS—TRUSTEES.

AN ACT

AMENDING SECTION 1 OF SECTION 172 OF THE REVISED STATUTES OF IDAHO TERRITORY.

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

SECTION 1. That section 1 of section 172 of the Revised Statutes of Idaho, be and the same is, amended to read: The Governor, Secretary of State and State Treasurer shall constitute a board of trustees for the custody and maintenance of the capitol building and grounds.

Whereas an emergency exists therefor, this act shall take effect and be in force from and after its passage.

Approved January 15, 1891.

SUPREME COURT—OFFICERS.

AN ACT

ENTITLED AN ACT TO AUTHORIZE THE SUPREME COURT TO FIX THE TIMES FOR HOLDING THE TERMS THEREOF, TO APPOINT CERTAIN OFFICERS FOR SAID COURT, AND TO FIX THEIR SALARIES.

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

SECTION 1. The supreme court, or any two of the judges thereof, may, by an order, fix the times for holding the terms of the supreme court, which shall not be changed oftener than once in each year.

SEC. 2. The court shall have power to appoint a crier, bailiff, and a messenger for each term of court, when such officers are necessary.

SEC. 3. The salaries of the respective officers of said court shall be as follows:

The clerk of the court, who may appoint one or more deputies, two thousand dollars per annum, which salary shall be the only compensation he shall receive for all services required of him or of any deputy he may appoint.

The clerk shall, on the first day of January, April, July and October of each year, deliver to the State Auditor a statement, verified by oath, showing the different items of fees received or charged by him, from whom, at what time, and for what services, during the preceding three months, and on the same day he shall pay to the State Treasurer the amount of said fees, who shall give his receipt therefor, and, upon exhibition of said receipt, the Auditor shall draw his warrant upon the treasury for the amount of salary due.

Crier and bailiff, four dollars per day, each, and messenger, two dollars per day.

The crier, bailiff and messenger to receive pay only when necessarily and actually engaged in their duties as such officers; said time to be certified to the Auditor by one of the justices of the supreme court, at the close of each term of court.

SEC. 4. Said salaries shall be paid quarterly out of the State treasury upon warrants issued by the Auditor.

SEC. 5. This act shall take effect and be in force from and after its approval by the governor, an emergency existing therefor.

Approved January 15, 1891.

STORAGE—GRAIN, FLOUR AND WOOL.

AN ACT

GOVERNING THE STORAGE OF GRAIN, FLOUR, WOOL OR OTHER PRODUCE, WHEN RECEIVED FOR STORING, SHIPPING GRINDING OR MANUFACTURING.

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

SECTION 1. 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, wool or other product is stored, to deliver to the owner of such grain, flour, wool, or other product a warehouse receipt therefor, 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 vouchers as provided for in section 1 for any grain, flour, wool or other produce 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 of the same the word duplicate.

SEC. 3. No person operating any warehouse, commission house, forwarding house, mill, wharf, or other place where grain, flour, wool or other product or commodity is stored, shall mix any grain, flour, wool or other product or commodity of different grades together (or different quali-

ties of the same grade), or deliver one grade for another, or in any way tamper with the same while in his possession or custody, and in no case mix different grades together while in store without the consent of the owner or owners thereof in writing.

SEC. 4. No person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage shall sell, hypothecate, ship, transfer or in any manner remove, or permit to be shipped, transferred or removed beyond his custody and control, any grain, flour, 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 assent of the holder of the receipt.

SEC. 5. All checks or receipts given by any person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage for grain, flour, 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. On the presentation of the receipt given by any person operating any warehouse, commission house, forwarding house, mill, wharf or any other place of storage for any grain, flour, wool 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 warehouseman, wharfinger, millman or other bailee to deliver such commodity to the owner of such receipt.

SEC. 7. Any person who shall violate any of the provisions of this act shall be guilty of a felony, and, upon conviction thereof, shall be fined in any sum not exceeding five thousand dollars, or be imprisoned in the penitentiary of this State not exceeding five years, or both; and in case of a corporation the person acting for such 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, before any court of competent jurisdiction, whether such person shall have been convicted under this act or not.

Approved January 15, 1891.

STATE TREASURER—INVESTMENT OF FUNDS.

AN ACT

TO AUTHORIZE AND REQUIRE THE STATE TREASURER TO INVEST THE SURPLUS MONEYS OF THE CAPITOL BUILDING FUND IN STATE WARRANTS.

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

SECTION 1. Whereas, prior to the time when the capitol building bonds, issued under section thirty-seven of the special and local laws, shall become subject to redemption, as provided by said section, the amount of money in the capitol building fund provided for by section thirty-eight of the special and local laws, shall exceed the amount required for the payment of the interest coupons of said bonds due or to become due within the next ensuing twelve (12) months, the State Treasurer shall use such surplus in payment of any warrant drawn upon him by the State Auditor and presented for payment and not paid for want of money in the fund upon which they are drawn properly applicable thereto, and shall register and indorse such warrants as provided by section two hundred and thirty-eight of the Revised Statutes and place the same so indorsed to the credit of the capitol building fund, and such warrants shall bear interest and be payable in due course as other outstanding warrants; and when paid the principal and interest thereof shall belong to the capitol building fund and shall be in like manner reinvested until said bonds become redeemable as aforesaid.

SEC. 2. Therenow being a large surplus idle and unproductive in said capitol building fund and an insufficient amount in the general fund of the treasury to pay war-

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rants as presented, an emergency exists, and this act shall go into effect from and after its passage.

Approved January 17, 1891.

CRIME—PUNISHMENT—PEACE OFFICERS.

AN ACT

TO PROVIDE FOR THE PUNISHMENT OF CRIME, FOR THE APPOINTMENT OF PEACE OFFICERS AND TO ENFORCE SECTION SIX OF ARTICLE FOURTEEN OF THE CONSTITUTION.

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

SECTION 1. The Governor, the sheriff of any county, any United States marshal or deputy United States marshal, mayor of a city or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in this State to preserve the public peace and prevent or quell public disturbance, shall not hereafter appoint as such special deputy sheriff, special constable, marshal, policeman or other peace officer any person who is not a citizen of the State of Idaho.

SEC. 2. That any person or persons who shall in this State unlawfully exercise or attempt to exercise the functions of, or hold himself or themselves out to any one as, a deputy sheriff, marshal, policeman, constable or peace officer, or any person, whether acting in his own behalf or as an officer of the law, or as the authorized or unauthorized agent or representative of another, or of any association, corporation or company, who shall bring or cause to be brought, or aid in bringing, into this State any armed or unarmed police force or detective agency or force, or armed or unarmed body of men for the suppression of domestic violence shall be guilty of a felony, and, on conviction thereof, shall be punished by imprisonment in the State prison for not less than two (2) years and not more than five (5) years: *Provided*, That the legislature or the executive, when the legislature cannot be convened, may call upon the lawfully constituted authorities of the United States for protection against invasion and domestic violence, as provided in section four (4), article four (4), of the Constitution of the United States.

SEC. 3. Any person, officer, company, association or cor-

poration who shall knowingly bring, or cause to be brought, or aid in bringing, into this State any armed or unarmed police force, detective agency or force, or armed or unarmed body of men for the suppression of domestic violence shall be liable in a civil action to any person for any injury to person or property through the action or as the result of the coming or bringing into the State of such body of men, or any of them, whether acting together or separately in carrying out the purpose for which they were brought or came into the State.

SEC. 4. All acts and parts of acts inconsistent with this act are hereby repealed. *Provided*, That nothing contained in this act shall be construed to repeal by implication or otherwise any of the provisions of chapter IV, of title I, of part II of the penal code of this State.

SEC. 5. This act shall take effect and be in force sixty days after the close of the present session of this legislature.

Approved January 20, 1891

ACCEPTING CERTAIN ACTS OF CONGRESS.

AN ACT

DECLARING THE ASSENT OF THE LEGISLATURE OF THE STATE OF IDAHO TO ALL THE PROVISIONS OF AN ACT OF CONGRESS, APPROVED JULY 2, 1862, ENTITLED, "AN ACT DONATING PUBLIC LANDS TO THE SEVERAL STATES WHICH MAY PROVIDE COLLEGES FOR THE BENEFIT OF AGRICULTURE AND MECHANIC ARTS," AND THE ACTS AMENDATORY AND SUPPLEMENTARY THERETO; AND ALSO AN ACT APPROVED MARCH 2, 1887, ENTITLED "AN ACT TO ESTABLISH AGRICULTURAL EXPERIMENTAL STATIONS IN CONNECTION WITH THE COLLEGES ESTABLISHED IN THE SEVERAL STATES UNDER THE PROVISIONS OF AN ACT APPROVED JULY, 2, 1862, AND OF THE ACTS SUPPLEMENTAL THERETO," AND THE ACTS AMENDATORY THEREOF AND SUPPLEMENTARY THERETO.

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

SECTION 1. That the assent of the Legislature of the State of Idaho is hereby given to all the provisions of an act of Congress, approved July 2d, 1862, entitled, "An act donating public lands to the several States which may

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provide colleges for the benefit of agriculture and the mechanic arts," and the acts amendatory thereof and supplementary thereto; and, also, an act approved March 2d, 1887, entitled "An act to establish agricultural experimental stations in connection with the colleges established in the several States under the provisions of an act approved July 2d, 1862, and the acts supplemental thereto," and the acts amendatory thereof and supplementary thereto.

Approved January 23, 1891.

RAILWAY CORPORATIONS.

AN ACT

AUTHORIZING RAILROAD COMPANIES TO TAKE, ACQUIRE, PURCHASE, SELL OR GUARANTEE THE PAYMENT OF THE BONDS AND OTHER SECURITIES OF OTHER RAILROAD COMPANIES.

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

That section twenty-six hundred and eighty-six (2686) be and the same is hereby added to the Revised Statutes of Idaho, and shall read as follows:

Section 2686. Any railroad corporation, whether chartered by, or organized under, the laws of this State or of the Territory of Idaho, or of the United States, or of any other State or Territory, may take, purchase, hold, sell, and dispose of, or guarantee the payment of, the bonds and securities of any other railroad corporation whose line of railroad is continuous of, or by lease, traffic contract, or otherwise connected with, its own line.

Approved January 26, 1891.

BOARD OF PARDONS—SESSIONS.

AN ACT

TO PRESCRIBE SESSIONS OF THE BOARD OF PARDONS, THE MANNER IN WHICH APPLICATIONS FOR PARDON SHALL BE MADE, AND TO REGULATE THE PROCEEDINGS THEREON.

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

SECTION 1. The board of pardons established by section 7, of article IV, of the Constitution of the State of Idaho,

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shall meet at the capitol on the first Wednesday of January, April, July and October of each year.

SEC. 2. The Governor shall preside at all meetings, and the Secretary of State shall be secretary, and shall keep a full and detailed record of the proceedings of the board.

SEC. 3. Applications for pardons, commutations and remittances shall be made to the board by written or printed petition, giving a full history of the offense alleged to have been committed, and the legal proceedings had thereon, together with the reasons for clemency, and proof that due publication, as hereinafter provided, has been made in some newspaper of general circulation in the county wherein the alleged offense was committed, and that a copy of said notice has been served on the district judge, district attorney, and chairman of the Board of county commissioners of the county wherein the alleged offense was committed or conviction had.

SEC. 4. It shall be the duty of the board, when applications for pardons, commutations, and remittances are duly presented to them, to carefully consider them; and for this end they may make such examination outside the application and accompanying documents as they see fit, and shall, if action favorable to the applicant be decided upon, issue to the applicant a certificate of their action, signed by the chairman and countersigned by the secretary of the board, and also notify the custodian of the body of the applicant, if he be in custody, of their action.

SEC. 5. Every person having taken a lawful oath or affirmation in an application to the board, or on the hearing thereof, who shall swear or affirm wilfully, corruptly and falsely in any matter material to the issue or point in question, or shall suborn any other person to swear or affirm as aforesaid, shall be deemed guilty of perjury or subordination of perjury (as the case may be), and, upon conviction thereof, shall be punished as by law provided for such crime.

SEC. 6. All expenses attending the application for a pardon, commutation or remittance, and the proceedings thereon, shall be borne by the applicant, unless for good cause shown the board shall otherwise direct.

SEC. 7. Upon the receipt of the certificate mentioned in section four (4) of this act, it shall be the duty of the said custodian forthwith to discharge from custody the person to whom the pardon has been granted.

SEC. 8. Upon the remission of a fine or penalty by the board it shall be the duty of the secretary of the board forthwith to certify the same to the clerk of the court where said fine or forfeiture was adjudged, who shall file the same in his office, and said proceedings shall constitute a satisfaction of the judgment.

SEC. 9. Any member of the board shall have authority to administer an oath or affirmation to any person offering to testify upon the hearing of an application, and may issue subpoenas for witnesses.

SEC. 10. The Governor shall have power to restore to citizenship any person who has served a term of imprisonment in the State penitentiary, and the time of sentence has expired, on good cause shown, upon application duly made to him under the same rules, regulations, and procedure as are provided for applications for pardons.

SEC. 11. The board shall have power to make all needful rules and regulations for the conduct of its business not inconsistent with this act or other provisions of law.

SEC. 12. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved January 28, 1891.

INSANE ASYLUM—SPECIAL APPROPRIATION.

AN ACT

MAKING APPROPRIATIONS FOR THE PAYMENT OF MISCELLANEOUS ITEMS OF INDEBTEDNESS, OWING BY THE STATE OF IDAHO FOR, AND ON ACCOUNT OF, WORK AND LABOR DONE IN AND UPON THE INSANE ASYLUM.

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

SECTION 1. That the following sums of money, or so much thereof as may be necessary, be, and the same are hereby, appropriated out of the general fund for the payment of the following miscellaneous items of indebtedness owing by the State of Idaho on account of work and labor done in and upon the insane asylum, to-wit:

J. P. York, \$120.00.

E. B. York, \$127.50.

Chas. Haddock, \$68.00.

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E. E. Bingham, \$132.65.

M. A. Jones, \$188.53.

Amos Jones, \$102.44.

Geo. Houck, \$166.50.

William Conners, \$96.90.

George E. Bumgarner, \$215.00.

Harvey E. Fisher, \$103.84.

John W. Givens, \$625.00,

Oscar Jarrett, \$127.50.

Mary E. Jensen, \$112.50.

Marie Lorentzen, \$90.00.

W. B. McDaniel, \$105.00.

L. M. McPherson, \$150.00.

J. W. Rule, \$105.00.

Margeret C. Reevey, \$150.00.

Henry Simmons, \$97.50.

H. M. Kirkpatrick, \$124.25.

E. Watson, \$14.00.

SEC. 2. The State Auditor is hereby authorized, upon the presentation of the proper vouchers, duly approved by the State board of examiners, in the manner provided by law, to draw his warrant on the general fund for the amounts respectively due.

SEC. 3. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved January 28, 1891.

CHANGING "TERRITORY" TO "STATE" AND "CONTROLLER" TO "AUDITOR."

AN ACT

TO CHANGE THE WORDS "TERRITORY" AND "TERRITORIAL" TO THE WORD "STATE," AND THE WORD "CONTROLLER" TO THE WORD "AUDITOR."

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

SECTION 1. In all places where it occurs in the Revised Statutes of Idaho and in the laws passed by the legislative assembly of the Territory of Idaho at its fifteenth session, the word Territory or Territorial, where the same refers to the Territory of Idaho, is hereby changed to the word State.

SEC. 2. In all places where it occurs in the Revised Statutes of Idaho and in the laws passed by the legislature of Idaho at its fifteenth session, the word Controller, where it applies to the Controller of the Territory of Idaho, is hereby changed to the word Auditor.

SEC. 3. This act shall take effect immediately upon its approval by the Governor, an emergency existing therefor.

Approved January 28, 1891.

STATE AND DISTRICT OFFICERS—ABSENCE.

AN ACT

TO AMEND SECTION 326, OF CHAPTER 14, OF TITLE I, PART I, OF THE REVISED STATUTES OF IDAHO.

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

SECTION 1. That section 326 be amended to read as follows:

Section 326. No State or district officer must absent himself from the State or district for more than thirty days, unless upon business of the State, or with the consent of the Governor.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force sixty days from the close of the present session of this legislature.

Approved January 30, 1891.

STATE PENITENTIARY—CUSTODY AND CONTROL.

AN ACT

TO PROVIDE FOR THE GOVERNMENT AND MAINTENANCE OF THE PENITENTIARY, AND FOR THE CARE AND CUSTODY OF STATE PRISONERS.

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

SECTION 1. That there shall be continually maintained, for the care and custody of convicts in Idaho, a penitentiary at Boise City, in Ada County, on the lands connected therewith and set apart and reserved therefor and granted and donated to the State of Idaho by the general government upon its admission into the Union.

SEC. 2. That the Governor, the Secretary of State and the Attorney-General be, and the same are hereby, constituted a board of State prison commissioners, of which the Governor shall be chairman, and said board shall have the control, direction and management of the penitentiary of the State.

SEC. 3. The officers of the penitentiary shall consist of one warden, who shall be the principal keeper of the penitentiary; one deputy warden, who shall be the chief turnkey and clerk and bookkeeper of the penitentiary, both of whom shall reside at the penitentiary; one physician, and such number of assistant keepers and guards as the warden and board of State prison commissioners shall deem requisite.

SEC. 4. The warden shall be appointed by the board of State prison commissioners. He must execute an official bond in the sum of ten thousand dollars, with at least two good and sufficient sureties, to the full penalty of said bond, to be approved by the Governor, and shall hold his office during the pleasure of the board.

SEC. 5. The physician shall be appointed by the board of State prison commissioners, and shall hold his office during the pleasure of said board. The deputy warden, the assistant keepers and the guards shall be appointed by the warden, with the assent of the board, and shall hold their offices during the pleasure of the warden.

SEC. 6. The board of prison commissioners shall meet quarterly and shall inquire into and examine all matters connected with the government, discipline and police of the penitentiary, the punishment and employment of the prisoners confined therein, and they may, from time to time, require reports from the warden as to any and all of said matters.

SEC. 7. The board shall have authority to use the labor of the convicts in the erection of a wall around the penitentiary buildings and grounds, and such other improvements and repairs to said buildings and grounds as they may deem proper and necessary, and to perform any other labor in and about the penitentiary or penitentiary grounds or lands.

SEC. 8. They shall inquire into any improper conduct alleged to have been committed by the warden or any other officer of the penitentiary, and for that purpose the chairman of the board has power to issue subpoenas to

compel the attendance of witnesses and the production of papers and writings before them, in the same manner and with like effect as in case of arbitration.

SEC. 9. The board may examine any witnesses who appear before them, on oath, to be administered by the chairman of the board, or, in his absence, by any other member of the board.

SEC. 10. The warden and other officers of the penitentiary at all times shall admit the board, or either of them, into every part of said penitentiary; exhibit to them, or either of them, on demand, all the books, papers, accounts and writings pertaining to the penitentiary or to the business, government, discipline or management thereof, and render them every other facility in their power to enable them to discharge their duties under this act.

SEC. 11. It shall be the duty of the State prison commissioners, in connection with the warden, to make and adopt such general rules and regulations for the government and discipline of the prison as they may consider expedient, and from time to time to change and amend the same as circumstances may require. In making such rules and regulations they shall, as far as practicable and consistent with the discipline of the prison, adopt such as shall in their judgment best conduce to the reformation of convicts. A printed copy of the rules and regulations shall be furnished to every officer and guard at the time he is appointed, and so much thereof as relates to the duties and obligations of the convicts shall be hung up in a conspicuous place in each cell and shop.

SEC. 12. The warden or deputy warden shall keep a daily journal of all proceedings of the penitentiary, in which he shall note all infractions of the rules and regulations of the penitentiary by any officer or guard thereof, and also any infraction of the rules and regulations of the penitentiary by any prisoner, naming him and specifying the offense, and also what punishment (if any) was inflicted, which journal shall be laid before the board at every stated meeting, and at every special meeting when demanded.

SEC. 13. The board, on the first Monday of December, annually, shall audit, correct and settle the accounts of the warden with the penitentiary and the State for the year ending on the last day of November preceding, and make report of the same to the Governor, which report

must embrace and exhibit all particulars necessary to give the Governor a full understanding of the fiscal year, and all other matters pertaining to the management of the prison; and they shall, at the same time, furnish an estimate of the probable income and expenses of the penitentiary for the ensuing year.

SEC. 14. It shall be the duty of the board of State prison commissioners to establish rules for the admission of visitors to the penitentiary, and they may prescribe a certain sum, not to exceed twenty-five cents, to be charged each individual admitted for each admission. The warden shall provide suitable tickets of admission, and keep, or cause to be kept, a record in the daily journal of the number of visitors admitted; and there shall be appropriated, quarterly, out of the fees received from visitors, or from other funds of the library, a sum not less than twenty-five dollars, to be expended in the purchase of books, papers, and periodicals for the use of the prison library.

SEC. 15. There shall be paid to the officers and employees of the penitentiary the following yearly salaries and compensations, to-wit:

To the warden, the sum of twelve hundred dollars; to the deputy warden, the sum of ten hundred dollars and board and quarters, as provided in section 45; to the physician and assistant keepers and guards, such sums as the board of prison commissioners deem proper and just: *Provided*, That the board of prison commissioners shall not pay the guards and keepers more than seventy-five dollars per month and board. All bills and supplies and services rendered to the penitentiary shall be paid monthly out of the State treasury on warrants of the State Auditor.

SEC. 16. The warden shall attend constantly at the penitentiary. He shall exercise general supervision over, and give necessary directions to, the keepers and guards; examine whether they have been vigilant in the discharge of their respective duties; examine daily into the health of the prisoners, and take charge of the real and personal estate belonging to or connected with the penitentiary.

SEC. 17. All the transactions and dealings of the prison shall be conducted in the name of the warden, who shall be capable in law of suing and being sued in all courts and places in all matters concerning the said prison by his name of office, and by that name he is hereby authorized to sue for and recover all sums of money or any property due

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from any person to any former warden of said prison, or to the people of the State, on account of said penitentiary.

SEC. 18. No officer or employee of the penitentiary shall be interested directly or indirectly in contracts for furnishing such penitentiary with provisions, clothing or other articles to be used in any manner by the inmates or for the use of the institution. Nor shall any or either of such officers be concerned in, or interested in any manner in contracts for buildings of any kind connected with the penitentiary, or for materials to be used in any such buildings, or in any contract for the labor of any convict. Nor shall any officer or employee be permitted to receive in any way any perquisites for themselves or families, or any compensation or reward from any contractor or employee or other person. Should any officer or employee violate or wilfully or negligently fail to observe the provisions and prohibitions of this section, he shall be at once dismissed from office by the board of commissioners; and further, upon conviction of such violation by a court of competent jurisdiction, he shall be fined a sum not exceeding one thousand dollars and not less than one month's pay, and shall forfeit his interest in any and all contracts or rewards which he may have received or agreed to receive in violation of the provisions of this section.

SEC. 19. All articles of food, clothing, bedding, fuel and all supplies that may be necessary for the use of the prison, must be contracted for in the following manner: The warden shall, quarterly, during the first weeks of February, May, August and November of each year, make an estimate of the articles and supplies necessary for the use of the prison for the next succeeding three months, and after submitting same for the approval of the board of commissioners, he shall proceed to advertise for bids in some newspaper of general circulation in Boise City for the term of one week. On receipt of bids, the warden shall submit same to the prison commissioners, who, after examination, shall award contracts, to run for the next succeeding three months, to such firms and persons as may in their judgment best serve the interests of the institution.

The warden shall cause to be kept a regular and correct account of all moneys received by him from every source by virtue of his office, including all moneys taken from convicts or received from proceeds of property taken from them, and of all moneys paid by him, and the person to

whom, and the person for whom, the same were paid, and shall make out and deliver to the board, quarterly, a statement, duly verified, of all moneys received and paid by him on account of the penitentiary, specifying from whom and to whom made, and on what account, and the balance remaining in his hands at the time of rendering said account.

SEC. 20. The warden must take bills of the quantity and prices of supplies furnished for the prison at the time they are delivered, and shall at once submit same to the deputy warden, who shall compare the bills with the articles delivered and check off same. If the bills are correct, the warden must certify by signing each bill, and the deputy warden must enter them, with date, in a book kept for that purpose. In like manner bills shall be taken, certified and entered for all services rendered for the prison, including officers, guards and keepers. If any bills be found incorrect, the deputy warden shall omit to enter them, and shall immediately give notice to the warden, that the error may be corrected.

SEC. 21. The warden shall, annually, on the last day of November of each year, close his accounts, and on or before the third of December next thereafter render to the State Auditor a full and true account of all moneys received by him and of all moneys expended by him on account of the prison, with sufficient vouchers therefor, which account shall be duly verified by the warden.

SEC. 22. He shall, annually, on or before the third day of December in each year, make and deliver to the board of state prison commissioners, a report exhibiting a complete and detailed statement of the transactions of the penitentiary during the year preceding, and stating the number of convicts confined therein and all other matters relating to the same and the management thereof.

SEC. 23. The general support of the penitentiary, including food, clothing, bedding and all supplies for the use of the prison, including salaries of officers and employees, and all other expenses connected therewith, shall not exceed eighty-five cents per day for each convict: *Provided*, That all expenses for permanent repairs and improvements, or the expenses of sheriffs and other officers in bringing prisoners to the penitentiary, and all extraordinary expenses made with the consent and advice of the board of commissioners, shall not be included in this limit of expense per capita. All such expenses shall be kept in detail, under

a separate head, in the prison books, and shall so appear in all financial reports of the commissioners and warden: *Provided*, That no labor of convicts shall be charged to this account.

SEC. 24. If any convict resist the authority of any officer, keeper or guard of the penitentiary, or refuse to obey any lawful command, then such convict shall be at once taken to his cell and his case reported without delay to the warden, who may authorize such punishment under the prison rules as will in his opinion fit the case. If any convict threaten personal injury to any officer, keeper or guard, or make such demonstrations as may reasonably lead the officer, keeper or guard to believe his life or the life of any convict in danger, or if any prisoner acts in a manner which may lead the officer, keeper or guard to believe he is attempting to escape, then such officer, keeper or guard may proceed forthwith to use any weapon he may have to enforce obedience, and if in so doing any convict shall be necessarily wounded or killed, the officer or assistants are justified and shall be held guiltless: *Provided*, That no punishment shall ever be inflicted except solitary confinement on bread and water, or by wearing ball and chain attached to one leg.

SEC. 25. It shall be the duty of the physician to attend at all times to the wants of sick convicts, to prescribe medicine and diet for them. When any convict shall claim to be unable to labor by reason of sickness, the warden shall refer the case at once to the physician, and shall be guided by his opinion. He shall examine the cells of the convicts and all the sanitary arrangements of the prison, the food and clothing of the convicts once a week, and shall make a general report of same at each quarterly meeting of the board of commissioners. He shall enter in the daily journal of the prison the names or numbers of all convicts placed under his care, stating the disease with which each is afflicted. He shall also record the death of any convict in said journal, stating name, age, time and cause thereof, and he shall embody a statement relative to these matters in his quarterly report to the board of commissioners.

SEC. 26. In case any pestilence or contagious disease breaks out among the convicts in the penitentiary, the board and warden may cause such convicts to be removed to some secure and suitable place where such sick shall receive all necessary care and medical attendance.

SEC. 27. The warden shall receive, safely keep, and subject to the discipline of the penitentiary any criminal convicted of any crime against the United States, and sentenced to confinement therein by any court of the United States sitting within this State, until such sentence is executed, or until such convict is discharged by due course of law; the United States supporting such convicts and paying the expenses of executing such sentence.

SEC. 28. He shall take charge of any property that convicts may have at the time of entering the penitentiary, and if the same is of the value of five dollars or more, may sell the same, with the consent of the convict, and place the proceeds at interest for the benefit of such convict or his representatives when he may leave the penitentiary, keeping a correct account of such property and the proceeds thereof.

SEC. 29. When any convict is discharged from the prison, the warden shall furnish such convict with a decent suit of clothing (if he is not already provided for) at the expense of the State, and shall pay such convict, from any funds belonging to the penitentiary, a sum not exceeding ten dollars, and shall deliver to said convict any property received from him which has not been disposed of according to law.

SEC. 30. When there are cells sufficient, each prisoner shall be confined in a separate cell.

SEC. 31. The clothing and bedding of the convicts shall be of coarse material, and they shall be supplied with a sufficient quantity of substantial, wholesome food.

SEC. 32. No person shall, without the consent of the warden, bring into or carry out any writing or any information to or from any convict.

SEC. 33. The following persons shall be allowed to visit the penitentiary during the regular hours prescribed by the warden for the admission of visitors: State officers, members of the legislature and regularly ordained ministers of the gospel, for the purpose of holding religious services and ministering to the spiritual wants of the prisoners, but no other person shall go within the walls of the penitentiary without the special permission of the warden or board.

SEC. 34. When any convict is delivered to the warden the officer having such prisoner in charge shall deliver to the warden a certified copy of the sentence received by such

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officer from the clerk of the court where such convict was tried, and shall take from the warden a certificate of the delivery of such convict, and such certified copy of the sentence shall be evidence of the fact therein contained.

SEC. 35. When any convict escapes from the penitentiary the warden shall use all proper means for the apprehension of such convict. For this purpose the board of State prison commissioners may offer a reward not to exceed five hundred dollars.

SEC. 36. All rewards, and other sums of money to be paid for advertising any convict, shall be approved by the board of examiners, and upon such approval the Auditor shall draw his warrant on the State Treasurer.

SEC. 37. The expenses and legal fees of sheriffs and other officers incurred in conveying convicts to the penitentiary, if approved by the State board of examiners, shall be paid out of the State treasury.

SEC. 38. Said board of examiners may allow for said expenses and fees the following rates: The sheriff shall receive three dollars per day for his services, and actual fare and necessary expenses, and each assistant shall receive two dollars per day, and actual fare and necessary expenses: *Provided*, That no expenses of sheriff or other officer conveying prisoners under section 37 shall be paid for more than one trip during each term of the district court in the county from which said sheriff or other officer shall come.

SEC. 39. No spirituous or fermented liquors shall, under any pretense whatever, be brought into or upon the premises of the prison, except by the direction of the prison physician.

SEC. 40. The State Auditor is authorized and required to draw his warrant on the State treasury for such sums as the board of State prison commissioners may from time to time direct, for defraying the proper and necessary expenses of the prison.

SEC. 41. The warden, the deputy warden, the physician, the assistant keepers and guards shall be exempt from military and jury duties while actually employed by the State as such officers.

SEC. 42. Whenever there is a vacancy in the office of warden, or the warden is temporarily absent, all the duties of the warden shall devolve upon and be performed by the deputy warden until the vacancy is filled or the warden

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returns, but in no case shall the warden and deputy warden be absent at the same time.

SEC. 43. All books, accounts, documents, registers and reports shall be deemed public property, and the warden shall preserve at least one copy of each.

SEC. 44. The warden shall cause to be kept a record of each and all infractions of the rules by convicts and discipline therefor, with the name of the convict offending and the date and character of each offense, which record shall be placed before the board of State prison commissioners at each regular meeting of the board.

SEC. 45. The warden, at the expense of the State, shall be entitled to the use of the building or quarters set apart and designated by the board of State prison commissioners as the warden's quarters, and shall be entitled to necessary fuel, lights and food for himself, wife and children, and shall render an itemized account of expenses chargeable to the warden's quarters and submit such account to the board of prison commissioners at the regular meetings of the board, together with his other accounts and reports: *Provided*, That if the warden does not occupy said building with his family, the same may be occupied by the deputy warden and his family.

SEC. 46. The warden shall, on the first Wednesday of each month, make a complete detailed report to the board of State prison commissioners, showing the whole number of prisoners confined in said prison on the first day of the preceding month, the number received during the month, the number whose terms expired during the month, the number pardoned during the month, the number escaped and still at large, the number escaped and recaptured, the number died (if any) during the month, and the number in prison on the last day of the month. He shall, also, at the same time, make a detailed statement of all receipts, showing the source from which the same was derived, and all expenditures, with the proper vouchers for each item, the same to be kept on file by the board and embraced in their annual report to the Governor. All certificates certified to by the warden on account of the expenditures for care and custody of prisoners shall be certified by at least two members of said board before the Auditor shall issue his warrant upon the treasury for the payment of the same.

SEC. 47. Every convict imprisoned in the State prison

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who has no infraction of the rules and regulations of the penitentiary recorded against him, and who performs the duties assigned to him in an orderly and peaceable manner, must be allowed, as a commutation of his sentence, a deduction of one month for the first year, two months for the second year, three months for the third year, four months for the fourth year, five months for the fifth year, and six months in each of the remaining years of said term. But if any convict escapes, or attempts to escape, from any prison, or commits an assault upon his keeper or any foreman, officer or convict, or otherwise endangers life, he forfeits any and all deductions from the time of his sentence to which he may have been entitled before the commission of such offense.

SEC. 48. Whenever a charge of misconduct shall be sustained by the warden and the board of prison commissioners at their first meeting after said charge or charges shall have been recorded by the warden or his deputy against a prisoner, he shall lose the deduction of time specified in section 47 of this act; but he may regain, by continuous good conduct thereafter, a deduction of time not exceeding seventy-five per centum of said time specified in section 47 of this act, and as much less as the warden and the board may certify to, as a suitable reward for good conduct.

SEC. 49. The Governor shall, upon the expiration of the sentence of any convict as commuted in sections 47 and 48, immediately issue his warrant for the discharge of said convict. Said warrant shall in all cases restore the prisoner to civil rights, the same as though a pardon had been issued.

SEC. 50. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 51. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 3, 1891.

COUNTY COMMISSIONERS.

AN ACT

TO AMEND SECTION SEVENTEEN HUNDRED AND SIXTY (1760) OF THE REVISED STATUTES OF IDAHO.

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

SECTION 1. That section seventeen hundred and sixty

(1760) of the Revised Statutes be amended so as to read as follows:

Section 1760. Board of county commissioners of each county shall, upon a petition of a majority of the qualified voters who are taxpayers of the county, fix and determine the bounty to be paid in the county for the destruction of each cayote, squirrel, wild cat, fox, lynx, bear, rabbit, panther, cougar, lion and nondescript, and to prescribe rules for making proof of such destruction and obtaining such bounty: *Provided*, That in no case shall the bounty for rabbits or squirrels be more than five cents for each animal destroyed.

Approved February 2, 1891.

NAVIGABLE STREAMS—BRIDGING OF.

AN ACT

GRANTING TO RAILROAD CORPORATIONS THE RIGHT TO BRIDGE
NAVIGABLE STREAMS AND WATERS OF THIS STATE.

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

SECTION 1. Any railroad corporation heretofore duly organized and incorporated under the laws of this State, or of the United States, or any other State or Territory, or which may hereafter be duly incorporated and organized under the laws of this State, or of the United States, or of any other State or Territory, and authorized to do business in this State and to construct and operate railroads therein, shall have, and hereby is given, the right to build and construct, possess and own, bridges across the navigable streams and waters within this State, over or across which the projected line or lines of railway of such railroad, corporation, or either of them, will run: *Provided*, That said bridges are to be constructed in good faith for the purpose of being made a part of the constructed line of said railroad, or a part of any of the line thereof to be constructed and in course of construction, and to be used by such railroad corporation as a part of its line of railroad so constructed, or to be constructed, for the more convenient, expeditious and safe operation thereof: *And provided, further*, That such bridges shall be so constructed as to not interfere with,

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impede or obstruct the navigation of such stream or navigable waters, and shall comply with and be subject to the acts of Congress relating to navigable streams, and the rules and regulations of the executive departments.

SEC. 2. This act shall take effect from and after its passage, an emergency existing therefor.

Approved February 3, 1891.

INTOXICATING LIQUORS—SALE OF.

AN ACT

TO REGULATE THE SALE OF INTOXICATING LIQUORS.

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

SECTION 1. It shall be unlawful for any person, by himself, by agent, or otherwise, to sell spirituous, malt or fermented liquors or wines to be drank in, on, or about the premises where sold, without having first procured a license and giving a bond as hereinafter provided.

SEC. 2. All applications for a license to sell intoxicating, spirituous, malt or fermented liquors or wines to be drank in, on, or about the premises where sold, must be made to the board of county commissioners of the county wherein it is proposed to sell such liquors, and shall be granted by said board as hereinafter provided.

SEC. 3. Before any license is issued the applicant shall produce before said board the receipt of the sheriff, showing that he has paid into his hands the amount due for such license, and execute and deliver to said board his bond to the State of Idaho, which bond shall be in the penal sum of one thousand dollars, with at least two good and sufficient sureties, residents and householders or freeholders of the county, who shall on oath justify in double the penal sum of the bond, to be approved by the said board of county commissioners; said bond shall be in substantially the following form:

WHEREAS,, of, has applied, or is about to apply, to the board of county commissioners of County, Idaho, for a license to sell intoxicating liquors to be drank in, on, or about the premises where sold, at, in said County, for the time of months from and after the

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We,, hereby undertake that the above named, if granted such license, will keep a quiet and orderly house for the sale of such intoxicating liquors, and will well and faithfully keep and observe all the laws of Idaho in regard to the sale of intoxicating liquors, and will well and faithfully keep and regard the provisions of any ordinances and regulations of any municipal organization of the place where such business is to be conducted relating to the keeping of saloons, taverns and the sale of intoxicating liquors; and if said fails to perform any of the conditions of this bond, or violates any of the provisions of the laws in regard to the sale of intoxicating liquors or the keeping of saloons and taverns, we will pay all costs, damages, fines and forfeitures resulting therefrom, not to exceed the sum of one thousand dollars; and no such bond shall be void upon its first recovery, but it may be sued upon and recovered upon from time to time as herein authorized, until the whole penalty thereof is exhausted. The board of county commissioners may require any licensee under the provisions of this act to file an additional bond or furnish additional sureties at any time when in their judgment the bonds furnished by any licensee are insufficient.

SEC. 4. The amount to be paid by each applicant for such license shall be the sum of five hundred dollars per year, or a proportionate amount for each fraction of a year, in any city, town, village or hamlet, where, at the last general election next preceding the date of the application for license, the total vote for Governor exceeded one hundred and fifty votes, and three hundred dollars per year in all other cities, towns, villages or hamlets: *Provided*, That all persons engaged in retailing liquors in connection with a hotel or tavern, where meals and lodgings are furnished and kept in good faith for the entertainment of travelers at any point distant three miles or more outside of the limits of any city, town, village or hamlet, shall pay a license therefor of one hundred dollars per year, or a proportionate amount for each fractional part of a year: *And provided further*, That no license issued under the provisions of this act shall be for a less time than three months, and no license shall be granted for a longer period than one year.

SEC. 5. Any wife, mother, father, son, daughter or sister of a person who is a habitual drunkard, or in the habit of getting intoxicated, or the county commissioners, or the

mayor of any city, or any county officer, may make complaint to any justice of the peace of the precinct where such person resides or may be staying, or to the probate judge of the county where such person resides or may be staying, alleging the name of such person, the fact of his being a habitual drunkard or in the habit of getting intoxicated, and the name or names of the person or persons from whom the person having such habits obtains his liquor, as such relative or officer believes, which complaint shall be verified by the person making the same; whereupon said justice of the peace or said probate judge shall issue a notice in writing to such person or persons so named, notifying him or them that no intoxicating liquors of any kind must be sold or given away by him or them, or at his or their place or places of business, to such person having such habit, and which notice must at once be served upon such person or persons as summons are served from justice courts. After the service of such notice, if any person or persons so notified shall sell, give away, or permit any person at his place of business to sell or give away, any intoxicating liquor to such person about whom he or they have received notice as aforesaid, his or their license to sell liquor shall, from that time, be deemed and held to be cancelled and annulled; and said person, and each of said persons, if more than one, shall be guilty of a misdemeanor and be liable in a civil action brought in the name or for the benefit of the person making such complaint, in the sum of two hundred dollars for each offense, and the wife, if there be one, may bring such suit without uniting her husband as a party to the action.

SEC. 6. When any person so licensed shall be convicted of a violation of any of the provisions of this act, or of any of the penal statutes of this State relating to the sale of intoxicating liquors, or shall violate any of the conditions of said bond hereinbefore provided for, the board of county commissioners may, and it is hereby made their duty, to revoke such license; but such revocation shall not be construed to discharge such licensee or his sureties for any damage sustained by, or right accrued to, any person prior to such revocation.

SEC. 7. It shall be competent or lawful for any incorporated city or town within the county where such bond is filed and license granted, to prohibit the person so

licensed, as well as all others, from engaging in the business of selling intoxicating liquors within the corporate limits until he shall obtain from said city or town authorities, such license as may be authorized by law and required by the ordinances and regulations of said city or town: *Provided*, That no additional bond shall be required by said city or town, nor shall any license be granted by the authorities of any such city or town to any one who has not filed the required bond with the board of county commissioners, and obtained from such board a license as herein provided: *And, Provided further*, That no license granted by such city or town shall run for any longer period than the license granted by such board of county commissioners; and the revocation of the county license granted by the board of county commissioners shall work a revocation of any license granted by such city or town.

SEC. 8. It shall be competent and lawful for both the county commissioners of any county, and also the proper authorities of any city or town situated therein, to require the payment of the licenses herein and by law provided, and the granting of the power to license or tax in any city or town shall not be held as in any way conflicting with the provisions of this act, the intention being to allow both the county and the city or town authorities to levy and collect a license for the sale of spirituous, malt and fermented liquors and wine as herein provided, and as provided by the charter and ordinance of such city or town.

SEC. 9. Every person with or without a license who shall sell or give away to any person already intoxicated any spirituous, malt or fermented liquor or wine, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars, or imprisoned in the county jail not to exceed six months.

SEC. 10. Any county commissioner who shall knowingly approve any insufficient bond, required by the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than three hundred dollars.

SEC. 11. The giving away of intoxicating liquor of any kind, or any other shift or device to evade the provisions of this act, shall be deemed and held to be an unlawful selling within the provisions of the same.

SEC. 12. Every person selling or giving away spirituous.

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malt or fermented liquors or wine in violation of the provisions of this act, or without first having complied with the requirements of the same, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars.

SEC. 13. Any person engaged in the business of retailing liquors under the provisions of this act, who shall keep a disorderly house, or allow boisterous or disorderly conduct therein, or shall allow the peace and quietude of the neighborhood to be disturbed by loud and unusual noises therein, or threatening, abusive or obscene language therein, or by other means or methods, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished accordingly; and his license may likewise be revoked as provided in section seven hereof.

SEC. 14. The bond required to be given by the provisions of section three of this act shall be liable for the payment of all fines, costs, compensation and damages assessed against the person giving it, in consequence of the sale of intoxicating liquors, and contrary to the provisions of this act.

SEC. 15. It shall be lawful for regular druggists or apothecaries to sell, without license, spirituous and vinous liquors for medicinal purposes, upon the written prescription of a regular practicing physician of this State, who certifies that in his opinion the health of the party to whom the liquor is to be sold requires or would be promoted by the use of the particular kind of liquor prescribed. It shall also be lawful for druggists, without the license herein provided, to sell wines for sacramental purposes, and to sell alcohol for mechanical and scientific purposes.

SEC. 16. It shall be unlawful for druggists to sell spirituous, malt or fermented liquors or wines to be drank, or to permit the same to be drank in, upon, or about the premises where sold, or in any room or building connected therewith.

SEC. 17. Any druggist violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, he shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars.

SEC. 18. Any physician who shall give any person or persons a prescription to obtain liquor from a druggist to

enable such person or persons to evade the provisions of this act shall be guilty of a misdemeanor. Any person not a physician who shall give any person or persons a prescription to obtain liquor from a druggist, and sign it in his own name as a physician, or sign the name of a regular physician thereto, or sign the name of any other person or any fictitious name, pretending by such signature that such name is that of a physician, shall be guilty of a felony.

SEC. 19. It shall be unlawful for any person or persons to sell or give away any spirituous, vinous or malt liquors to a minor. Any person violating this section is guilty of a misdemeanor.

SEC. 20. It is hereby made the duty of the district attorney, sheriff, and all constables and peace officers of the county or municipality, knowing of any violation of this act to make complaint thereof before the proper tribunal.

SEC. 21. The words "intoxicating liquors," as used in this act, shall be deemed and construed to include spirituous, vinous, malt and fermented liquors, and all mixtures and preparations thereof, including bitters that may be used as a beverage and produce intoxication.

SEC. 22. Section 1648 of the Revised Statutes and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 23. This act shall be in force and take effect from and after the first day of July, 1891: *Provided*, That all persons who have licenses which extend beyond July 1, 1891, shall not be subject to the provisions of this act until the expiration of such licenses.

Approved February 6, 1891.

IDAHO NATIONAL GUARD—APPROPRIATION.

AN ACT

PROVIDING FOR THE PAYMENT OF CERTAIN EXPENSES OF THE NATIONAL GUARD OF IDAHO INCURRED DURING THE YEARS 1889 AND 1890.

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

SECTION. 1. That there is hereby appropriated from the

general fund of the State the sum of nine hundred and fifty dollars, or so much thereof as may be necessary, to be used in paying for clerical services in the office of the adjutant-general, and transportation and packing charges on arms, ammunition, clothing and equipage distributed to the several companies of the national guard of Idaho.

SEC. 2. That the State Auditor be, and is hereby, directed to draw his warrant in accordance with the provisions of section 1 of this act, and the State Treasurer will pay the same out of any moneys in the treasury not otherwise appropriated.

SEC. 3. This act shall take effect and be in force from and after its approval by the governor, an emergency existing therefor.

Approved February 6, 1891.

MOOSE—TO PROTECT.

AN ACT

TO PROTECT MOOSE.

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

SECTION 1. That any person who shall wilfully shoot or otherwise kill, for the period of six years from and after the passage of this act, any moose, shall be deemed guilty of a misdemeanor and be fined not less than two hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than two months nor more than six months.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Approved February 6, 1891.

STATE OFFICERS—TEMPORARY ABSENCE OR DISABILITY.

AN ACT

TO PROVIDE FOR THE PERFORMANCE OF THE DUTIES OF CERTAIN STATE OFFICERS IN CASE OF THEIR TEMPORARY ABSENCE OR DISABILITY.

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

SECTION 1. Whenever for any reason the Secretary of State, State Auditor, Attorney-General, or Superintendent

of Public Instruction are temporarily unable to perform the duties of their respective offices, the Governor may appoint a suitable person to perform such duties temporarily as an acting officer, until the incumbent of the office shall be able to resume the performance of his duties or a vacancy occurs in such office. The Governor shall require such bonds for persons so appointed as may appear to him necessary for the protection of the State, not exceeding the bonds given by the officer in whose stead he acts. Such acting officer shall be nominated by the incumbent of the office: *Provided*, That when the incumbent is unable or fails to so nominate, the Governor may appoint without such nomination.

SEC. 2. Nothing in this act contained shall be construed to amend or repeal existing laws relating to filling vacancies in State offices.

SEC. 3. Whereas an emergency exists, therefore this act shall take effect immediately.

Approved February 6, 1891.

MILITARY LANDS—CEDING JURISDICTION.

AN ACT

CEDING TO THE UNITED STATES JURISDICTION OVER CERTAIN LANDS.

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

SECTION 1. That pursuant to article one, section eight, paragraph seventeen, of the Constitution of the United States, consent to purchase is hereby given and exclusive jurisdiction ceded to the United States over and with respect to all lands embraced within the military posts and reservations of Fort Sherman and Boise Barracks, together with such other lands in the State as may be now or hereafter acquired and held by the United States for military purposes, either as additions to the said posts or as new military posts or reservations which may be established for the common defense; and, also, all such lands within the State as may be included in the territory of the Yellowstone National Park, reserving, however, to this State a concurrent jurisdiction for the execution, upon said lands, or in the buildings erected thereon, of all process, civil or criminal,

lawfully issued by the courts of the State and not incompatible with this cession.

SEC. 2. This act shall take effect from and after its passage, an emergency existing therefor.

Approved February 7, 1891.

ROADS AND HIGHWAYS—REPEALING ACTS.

AN ACT

TO REPEAL SECTIONS FIVE HUNDRED AND THIRTEEN TO FIVE HUNDRED AND TWENTY-FOUR, BOTH INCLUSIVE, OF THE SPECIAL AND LOCAL LAWS RELATING TO ROADS AND HIGHWAYS AND ROAD CONTRACTS IN BOISE COUNTY.

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

SECTION 1. That sections five hundred and thirteen, five hundred and fourteen, five hundred and fifteen, five hundred and sixteen, five hundred and seventeen, five hundred and eighteen, five hundred and nineteen, five hundred and twenty, five hundred and twenty-one, five hundred and twenty-two, five hundred and twenty-three and five hundred and twenty-four of the special and local laws of Idaho relating to roads and highways in Boise County are hereby repealed.

SEC. 2. This act shall take effect on the first day of July, 1891, when the present contracts under said repealed sections expire.

Approved February 11, 1891.

WASHINGTON COUNTY—BOUNDARIES.

AN ACT

TO BETTER DEFINE THE BOUNDARIES OF THE COUNTY OF WASHINGTON, STATE OF IDAHO, AMENDATORY TO AN ACT APPROVED FEBRUARY 20, 1879, ENTITLED "AN ACT TO ORGANIZE THE COUNTY OF WASHINGTON."

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

SECTION 1. That the County of Washington, in the State of Idaho, shall hereafter include all of the territory lying and being within the following lines, to wit:

Commencing at a point in the center of the channel of Snake river where the second standard parallel north, U. S. survey, intersects the same, and running thence east along said parallel to a point where the same intersects the westerly line of Boise County; thence northerly along said boundary line to the summit dividing the waters of the Payette and Weiser rivers; thence along said divide in a northerly direction to a point where the waters flow into the Little Salmon river and the Payette river; thence northerly along said divide to a point easterly from Little Salmon Meadows, at the head of Rock Prairie, where the waters flow into Goose creek, a tributary of Little Salmon river and the Payette river; thence northerly in a direct line to the center of the channel of Little Salmon river at the head of the falls at the lower end of Round valley; thence due west to the Snake river; thence up the center of the channel of Snake river to the place of beginning.

SEC. 2. That all acts and parts of acts in conflict with this act are hereby repealed.

Approved February 11, 1891.

STATE UNIVERSITY OF IDAHO.

AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO ESTABLISH THE UNIVERSITY OF IDAHO.

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

SECTION 1. That section eighteen of an act entitled an act to establish the university of Idaho be amended to read as follows:

Section Eighteen. There shall be levied and collected, annually, a State tax of three-quarters of a mill for each dollar of the assessed valuation of taxable property of the State of Idaho, which amount, when so levied and collected, shall be appropriated to a university building fund, to remain in the treasury subject to the order of the board of regents; but in no event shall said board appropriate the fund thus collected, or any portion thereof, to any purpose other than that for which said fund was provided: and, *Provided, further,* That said tax shall not be levied and

collected for a longer period than four years from the date hereof.

Approved February 12, 1891.

WAGON ROADS IN IDAHO AND WASHINGTON COUNTIES.

AN ACT

SUPPLEMENTARY TO AN ACT ENTITLED AN ACT TO PROVIDE FOR A WAGON ROAD BETWEEN MT. IDAHO, IN IDAHO COUNTY, AND LITTLE SALMON MEADOWS, IN WASHINGTON COUNTY, APPROVED FEBRUARY 5, 1889.

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

SECTION 1. That out of the surplus moneys remaining in the fund created by the act to which this is supplementary, to be applied to the construction of the wagon road described therein, the further sum of three thousand dollars (\$3,000) is hereby appropriated for the construction of the Salmon river bridge, and expenses incident thereto, in the manner set forth in said act; and the further sum of one thousand dollars (\$1,000) shall be expended by the commissioners in the manner set forth in the act of which this is supplementary for the completion of the wagon road from Price valley to Council valley, in Washington county; and the residue of said appropriation shall be expended by the commissioners appointed under said act in extending the State road, constructed under said act to which this act is supplementary, from a point upon said road at or near the head of Payette lakes, in Boise County, in a southerly direction through Long valley, by the most practicable route, to be selected by said commissioners, into Boise valley, in Ada County; and such road, when constructed, shall be subject to the provisions of said act to which this act is supplementary; but nothing in this act shall be construed to make any additional appropriation beyond the sum provided for by said original act: *Provided*, That the commissioners shall view and locate so much of the road as lies in Boise County on or before July 1, 1891: and, *Provided, further*, That the time for the completion of the road provided for in this act shall be extended to the first of December, 1891.

SEC. 2. An emergency existing therefor, this act shall take effect and be in force from and after its passage.

Approved February 14, 1891.

INSANE ASYLUM—APPROPRIATION.

AN ACT

MAKING APPROPRIATION FOR THE PAYMENT OF SUPPLIES FURNISHED AND LABOR PERFORMED FOR THE INSANE ASYLUM PRIOR TO THE FIRST DAY OF JANUARY, A. D. 1891.

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

SECTION 1. That the sum of thirty-nine hundred and forty-eight dollars and fifty-nine cents, or so much thereof as may be necessary, be, and the same hereby is appropriated for the payment of supplies furnished and labor performed for the insane asylum prior to the first day of January, 1891, which is justly due and owing by the State.

SEC. 2. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 16, 1891.

INSANE ASYLUM—APPROPRIATION.

AN ACT

MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN ITEMS OF INDEBTEDNESS OWING BY THE STATE OF IDAHO FOR LABOR PERFORMED AND SUPPLIES FURNISHED THE STATE PRIOR TO THE FIRST FISCAL QUARTER OF 1891.

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

SECTION 1. That the sum of forty-one hundred and twenty-seven dollars and sixteen cents, or so much thereof as may be necessary, is hereby appropriated for the payment of the following named persons as the same may be found due by the board of examiners on account of labor performed and materials furnished the State by E. J. Curtis, Justin Gilbert, A. J. McDonald, Geo. D. Barnard & Co., F. R. Coffin & Bro., N. Falk & Bro., J. R. Bennett, Walter C. Shoup, J. A. Pinney & Co., Steunenberg Bros., Statesman

Printing Co., A. J. Pinkham, C. E. Thayer, B. Heymanson, J. R. Wentley, B. F. Hastings, The United States, Boise City Waterworks, Silas W. Moody and C. S. Smith and Enterprise Printing Co.

SEC. 2. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 16, 1891.

LEGISLATURE—APPROPRIATION.

AN ACT

TO PROVIDE FOR THE PAYMENT OF OFFICERS, MEMBERS AND EMPLOYEES OF THE FIRST SESSION OF THE LEGISLATURE.

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

SECTION 1. That the sum of twenty-five hundred dollars, or so much thereof as may be necessary, be, and the same hereby is appropriated out of any moneys in the general fund of the State treasury not otherwise appropriated, for the purpose of paying the compensation due to the officers, members and employees of the first session of the legislature.

SEC. 2. The State Auditor is hereby authorized and required, upon the presentation to him of the certificate of the presiding officer of the house of which the person therein named is a member, officer or employee, that the party mentioned in said certificate is entitled to compensation to the amount therein stated, to draw his warrant on the general fund for the amount so certified as due.

□SEC. 3. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 21, 1891.

BOARD OF EXAMINERS—DUTIES.

AN ACT

RELATING TO THE BOARD OF EXAMINERS.

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

SECTION 1. The board of examiners created by section

18, of article IV, of the Constitution shall be styled the "State Board of Examiners." The Governor shall be chairman and the Secretary of State shall be secretary of the board.

SEC. 2. Regular sessions of the board shall be held on the first and third Tuesdays of every month, and special sessions at any time, if all the members are present.

SEC. 3. It shall be the duty of the board to examine all claims against the State, except salaries and compensation of officers fixed by law, and except fixed appropriations for principal and interest of the public bonded debt, and except claims against the State already presented to the board and favorably reported by it to the Legislature for passage. The board may approve or disapprove any claim or demand against the State, or any item thereof, or may recommend a less amount in payment of the whole, or any item thereof, and a decision of a majority of the members shall stand as the decision of the board.

SEC. 4. In case the Auditor shall draw a warrant for any claim, or part of a claim, or item thereof, which is disapproved by the board, he shall be liable upon his official bond for the same if any loss shall accrue to the State therefrom.

SEC. 5. The board may make such rules and regulations for the conduct of its business as it may deem desirable, not inconsistent with law.

SEC. 6. Whereas an emergency exists therefor, this act shall be in force from and after its passage.

Approved February 23, 1891.

DISTRICT ATTORNEYS—DUTIES.

AN ACT

DEFINING THE DUTIES OF DISTRICT ATTORNEYS OF THE VARIOUS DISTRICTS IN THE STATE, AND TO AMEND SECTIONS 2050, 2051, 2052, 2053, 2054, OF THE REVISED STATUTES OF IDAHO.

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

SECTION 1. That section 2050 be amended to read as follows: No person is eligible to the office of district attorney who is not an attorney and counsellor at law, duly licensed

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to practice as such in the district courts of the State of Idaho, and district attorneys must not hold any other county or State office during their term of office as such district attorneys.

SEC. 2. That section 2051 be amended to read as follows: Where there is no district attorney for the district, or where he is absent from the court, or where he has acted as counsel or attorney for a party accused in relation to the matter of which the accused stands charged, and for which he is to be indicted or tried, or when he is near of kin to the party to be indicted or tried on a criminal charge, or when he is unable to attend to his duties, the district court may, by an order entered in its minutes, stating the cause therefor, appoint some suitable person to perform for the time being, or for the trial of such accused person, the duties of such district attorney; and the person so appointed has all the powers of the district attorney while so acting, and may receive such compensation as the court may allow, out of the salary of the district attorney, for all services by him performed.

SEC. 3. That section 2052 be amended to read as follows: It is the duty of the district attorney: 1. To prosecute or defend all actions, applications or motions, civil or criminal, in the district court of his district in which the people or the State, or any of the counties of his district, are interested or a party; and when the place of trial is changed in any such action or proceeding to another county, he must prosecute or defend the same in such other county. 2. To give advice to the board of county commissioners and other public officers of his district, when requested in writing, in all public matters in which the people or the State or counties of his district are interested, or relating to the discharge of the official duties of such boards or officers. 3. To attend, when requested by any grand jury, for the purpose of examining witnesses before them; to give them advice in any legal matter before them; to draw bills of indictment, information and accusation; to issue subpoenas and other process, requiring the attendance of witnesses. 4. On the first Monday in each month to settle with the auditors of the various counties of his district, and to pay over all money collected or received by him during the preceding month belonging to the counties of his district or State to the county treasurer of the proper county, and take his receipt therefor,

and to file on the first Monday of January in each year in the office of the auditor of the proper county an account, verified by his affidavit, of all money received by him during the preceding year, by virtue of his office, for fines, forfeitures, penalties and costs, specifying the name of each person from whom he receives the same, the amount received from each and the cause for which the same was paid. 5. To perform all other duties required of him by any law.

SEC. 4. That section 2053 be amended to read as follows: When any district attorney receives any money for fines, forfeitures, penalties or costs he must deliver to the person paying the same, duplicate receipts therefor, one of which must be filed by such person in the office of the county auditor of the proper county.

SEC. 5. That section 2054 be amended to read as follows: No district attorney must receive any fee or reward for or on behalf of any prosecutor or business to which it is his official duty to attend or discharge, nor be concerned as attorney or counsel for either party other than the State, people or county in any civil action depending upon the same state of facts upon which any criminal prosecution commenced, but not determined, depends; and no law partner of any district attorney must be engaged in the defense of any suit, action or proceeding in which the said district attorney appears on behalf of the people, State or county.

SEC. 6. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 23, 1891.

STALLIONS AND JACKS.

AN ACT

TO AMEND SECTIONS 1240, 1241, 1242 AND 1243 OF THE REVISED STATUTES OF IDAHO, TO PREVENT STALLIONS AND OTHER ANIMALS FROM RUNNING AT LARGE.

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

SECTION 1. Section 1240 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1240. The owner of any stallion over the age of

eighteen months must not allow the same to run at large, unless it is of the market cash value of two hundred and fifty dollars, or more, and is at such value assessed.

SEC. 2. Section 1241 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1241. If any stallion of less than two hundred and fifty dollars market cash and assessed value, ridgling, or any unaltered male mule or jackass over the age of eighteen months be found running at large, the owner must be fined for the first offense twenty dollars, and for each subsequent offense not more than one hundred dollars nor less than forty dollars, to be recovered before a justice of the peace in the name of any person who will prosecute for the same, one-half to his own use and the other half to the use of the county school fund.

SEC. 3. Section 1242 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1242. Any person may take up and safely keep any such stallion, mule, ridgling or jackass found running at large or in his enclosures; and, when so found, must give the owner thereof five days' notice that such animal is in his possession; and if, at the expiration of the aforesaid time, the owner neglects to remove such animal and pay all reasonable charges for keeping the same, then the taker-up must notify the sheriff or any constable, whose duty it is to sell such animal at public auction, on the premises where taken up, after first giving five days' notice of such sale; and the proceeds of such sale must be applied, first, to the officer making such sale, which are the same as on execution; second, to the payment of the charges of the taker-up of such animal; and the remainder, if there be any, must be paid to the owner of such animal.

SEC. 4. Section 1243 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1243. If the owner or claimant of any stallion, ridgling, unaltered male mule or jackass be unknown, the taker-up must give ten days' notice, with the description of the animal or animals, its marks or brands, by posting up at least three written or printed notices in at least three conspicuous places in the county, calling upon the owner to claim the property; and if, at the expiration of the ten days, the owner neglects to remove such animal or animals and pay all costs, then the taker-up shall call on the sheriff or any constable of the county to sell such

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animal or animals; and, after deducting the fees of the officer making such sale and reasonable charges of the taker-up, the balance, if any there be, shall be paid into the county treasury, to be applied to the county school fund.

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

Approved February 23, 1891.

ELECTIVE FRANCHISE—CRIMES AGAINST.

AN ACT

RELATING TO CRIMES AGAINST THE ELECTIVE FRANCHISE, AND IN ADDITION TO TITLE THREE, PART FOUR, OF THE REVISED STATUTES.

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

SECTION 1. No spirituous, malt, vinous or intoxicating liquor shall be sold at retail or given away, nor shall any saloon or bar room, or place where such liquor is sold or given away, be open on any general election day from the hour of six o'clock a. m. to the hour of eight o'clock p. m. within this State, or within the limits of any incorporated city or town thereof.

Whoever violates, or in any manner aids another in violating the provisions of this section, shall be punished by a fine not exceeding one hundred dollars and not less than twenty-five dollars, and the revocation of the license of any saloon or bar room wherein such liquor is sold or given away.

No person shall introduce in any way into any polling place on election day, until after the vote is canvassed and counted, any spirituous, malt, vinous or intoxicating liquor, and any election officer drinking any such liquor in such place, or being intoxicated therein during such election or counting, shall be imprisoned in the county jail not exceeding six months, or be fined not exceeding three hundred dollars, or both.

SEC. 2. No person shall falsely make, or make oath to, or fraudulently deface, or fraudulently destroy any certificate of nomination, or any part thereof, or file, or receive for filing, any certificate of nomination, or letter of withdrawal, knowing the same, or any part thereof, to be falsely

made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or who shall wilfully delay the delivery of any ballots, or forge or falsely make the official indorsement on the ballot, or who shall wilfully destroy any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

SEC. 3. No person shall, during the election, remove or destroy any of the supplies or conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to, or on the day of, election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this act. No person shall, during an election, tear down or deface the cards printed for the instruction of voters. Every person wilfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars.

SEC. 4. No officer of election shall do any electioneering on election day. No person shall do any electioneering on election day within any polling place, or any building in which an election is being held, or within one hundred feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to, and egress from, said building. Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of any such officer, to arrest any person violating any of the provisions of this section, and such offender shall be punished by a fine not exceeding one hundred dollars, or less than twenty-five dollars.

SEC. 5. No person shall attempt to influence the vote of any elector by means of a promise or a favor, or by means of violence or threats of violence, or threats of withdrawing custom or dealing in business or trade, or enforcing the payment of a debt, or discharging from employment, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him, or by any other means.

SEC. 6. No person shall in any way offer a bribe to an elector to influence his vote.

SEC. 7. Any registry agent, or other person, who in any

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manner shall wilfully or corruptly permit any person not entitled to registration or to a certificate of registration, to be registered or have a certificate of registration, or who delays or fails to deliver the certified copies of the official register and the check list to the judges of election as required by law, or who permits any person to register after the date on which the registration books close, or who shall otherwise wilfully or corruptly violate any of the provisions of the law governing elections, the penalty for which is not herein specially prescribed, shall be punished for each and every offense by imprisonment in the penitentiary for a term of not less than one year nor more than five years, or by a fine of not less than one hundred no more than two thousand dollars, or by both such fine and imprisonment in the discretion of the court.

SEC. 8. Any person who shall wilfully cause, or endeavor to cause, his name to be registered in any other election district than that in which he resides, or will reside prior to the day of the next ensuing election, except as herein otherwise provided, and any person who shall cause, or endeavor to cause, his name to be registered, knowing that he is not a qualified elector, and will not be a qualified elector on or before the day of the next ensuing election, in the election district in which he causes or endeavors to cause such registry to be made, and any person who shall induce, aid or abet any one in the commission of either of the acts in this section enumerated and described, shall be fined not less than fifty dollars nor more than five hundred dollars, or be confined in the county jail for not less than one month nor more than six months, or both.

SEC. 9. Any person or officer of election who shall put, or permit to be put, into a voting booth any placard, notice or device, except the sample ballots and cards of instruction as by law provided, intended or likely to call the attention of the voter to any candidate, or to urge the voter to vote for any particular candidate, or shall put, or allow anything to be put, into such booths for the use or comfort of the voter whereby the claims of any candidate are urged upon the voter, either directly or indirectly, shall be imprisoned in the county jail not to exceed three months, or fined not to exceed five hundred dollars, or both.

Approved February 25, 1891.

MUNICIPAL BONDS—ISSUE.

AN ACT

TO PROVIDE FOR THE ISSUE AND SALE OF MUNICIPAL COUPON BONDS BY INCORPORATED CITIES AND TOWNS, AND TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST THEREOF.

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

SECTION 1. That every city or town incorporated under the laws of the Territory of Idaho, or of the State of Idaho, when it shall appear that the same has a population numbering two thousand or more persons and from the assessment roll of such city or town that the assessed valuation thereof amounts to the sum of one million dollars or over, shall have power and authority to issue municipal coupon bonds for any or all of the following purposes:

FIRST.—To provide for the construction and maintenance of necessary water works and supplying the same with water.

SECOND.—To provide for the laying, constructing, equipment and maintenance of sewers and drains.

THIRD.—To provide for the grading, paving, construction and laying out of streets and alleys.

FOURTH.—To provide for the funding, refunding, purchase and redemption of the outstanding indebtedness of such city or town.

FIFTH.—To provide for the establishment and maintenance of hospitals, pest houses and cemeteries, either within or without the corporate limits of such city or town.

SIXTH.—To provide for the purchase, improvement, equipment and maintenance of lands for use of public parks, either within or without the corporate limits of such city or town.

SEVENTH.—To provide for the purchase, erection, construction and furnishing of public buildings and building sites for the use of such city or town.

EIGHTH.—To provide for the establishment, equipment and maintenance of a fire department, and for the purchase of suitable and necessary apparatus and buildings and building sites for the use thereof.

SEC. 2. Before any such bonds are issued (except for the purpose mentioned in the fourth subdivision of the last preceding section) the mayor and common council of

such city, or the trustees of such town, must, by resolution passed at a regular meeting, declare the purpose or purposes and the total amount for which such bonds shall be issued, and specify the sum proposed to be used for each purpose and designate the provisions to be made to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the principal thereof within twenty years from the time of contracting the same.

They shall, also, by ordinance, provide for the holding of a special election of the qualified voters, who are taxpayers, of such city or town, which shall be conducted as other city elections, at which election there shall be submitted to such electors the question of issuing such bonds for the purpose named in such resolution. The voting at such election must be by ballot, on which ballot must be written or printed:

“For bonds and debt for (here separately naming the purpose or purposes for which said bonds shall be issued and such debt incurred)” or “Against bonds and debt (here separately naming the purpose or purposes for which such bonds shall be issued and such debt incurred.)”

If it shall appear upon a canvass of such ballots that two-thirds of such qualified electors voting at such election assent to the issuing of such bonds and the incurring of the indebtedness thereby created for any one or more of the purposes named in such resolution, such bonds for said purpose or purposes shall be issued in the manner herein-after provided.

SEC. 3. Said bonds shall be known as municipal bonds of (name of city or town, county and State), and shall be issued as near as practicable in denominations of one thousand dollars each, but bonds of the denomination of five hundred and one hundred dollars may be issued when necessary, and each bond payable in twenty years from the date of its issuance. Said bonds must bear interest at a rate not exceeding six per cent. per annum, to be paid on the first day of January and first day of July in each year at the office of the city or town treasurer, or at such bank in the city of New York as may be designated by the mayor and common council of the city, or trustees of the town, issuing such bonds, at the option of the holder thereof. Such bonds shall be redeemable at the pleasure of the city or town at any time after the expiration of ten years from the date of the issuance, and each bond must be redeemed in the order it is numbered

SEC. 4. The bonds mentioned in the preceding section must have attached to each bond when negotiated, semi-annual interest coupons covering the interest expressed in the bond from the date of issue until paid. Such bonds must be signed by the mayor or chairman of the board of trustees and attested by the city or town clerk, and bear the city or town seal, and be countersigned by the city or town treasurer, and the coupons attached to such bonds must be signed by the city or town treasurer. Each coupon must have annexed to the same a number corresponding with the number of the bond, and each bond must state upon its face, the amount for which the same is issued, to whom issued and the date of issue, and must also recite, that it is issued in conformity with the provisions of this act.

SEC. 5. The said mayor and common council or board of trustees must give three weeks' notice, by publication in some newspaper published in the city or town, of its intention to issue and negotiate such bonds, and invite bidders therefor, and after ascertaining the best terms upon, and the lowest interest at, which such bonds can be negotiated, must secure the proper engraving and printing thereof, and thereafter must have them consecutively numbered and otherwise properly prepared and executed; and when so executed, they must be by the city or town auditor registered in a public record book to be kept for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached, and any other proper description thereof for future identification. That then said mayor and common council or trustees must, from time to time, in such amounts as they may deem best, deliver said bonds to the city or town treasurer and take and file his receipt therefor, and charge him with all bonds so delivered; and any duties required of said mayor and common council or trustees by virtue of this act may be performed at any general, special or called meeting thereof. The city or town treasurer must, under the general supervision of said mayor and common council or trustees, sell said bonds for cash, and in no case must said bonds be sold for less than their face, or for value and the accrued interest at time of disposal. All proceeds derived from the sale of said bonds must be applied exclusively to the purposes for which said bonds are issued. And in no case

must any more of said proceeds be expended for any one purpose, than the amount named in the resolution of said mayor and common council or trustees above mentioned. Said city or town treasurer must keep a record of all bonds disposed of by time, showing their number, rate of interest, date and amount of sale, and when, where, and to whom payable, which record he must keep open for the inspection of the public at all reasonable office hours, and he must make such detailed statements to, and as often as required by, said mayor and common council or trustees, all of his transactions under the provisions of this act.

SEC. 6. The mayor and common council or trustees must, in accordance with the provisions designated to be made for the collection of an annual tax sufficient to pay the interest on such bonds as it falls due and to create and constitute a sinking fund for the payment of the principal of said bonds as they respectively become due, cause to be levied annually upon all the taxable property within said city or town, in addition to the authorized taxes, a sufficient sum to pay said interest, and must, at least one year before such bonds severally become due, and in time to provide means for their payment as they from time to time become due, cause to be levied a sufficient additional sum to pay said bonds; and all such taxes must be levied, assessed and collected as other city or town taxes, until the bonds so issued are fully paid, including the interest thereof; the faith, credit and all taxable property within said city or town, are and must continue pledged, and the proper officers of the city or town must continue to assess and collect on all the taxable property within the limits thereof, the necessary taxes to pay said bonds and interest thereon as the same becomes due. Should the tax for the payment of interest on any bonds issued under the provisions of this act, at any time, not be levied or collected in time to meet such payment, the interest must be paid out of any moneys in the city or town, general or expense fund, and the moneys so used for such payment of interest, must be repaid to the fund from which so taken out of the first moneys collected from taxes.

SEC. 7. It shall be the duty of the city or town treasurer to place to the credit of the several funds, to establish which such bonds may be sold, all proceeds arising from the sale of said bonds, and to expend the same as he may be from

time to time directed by the mayor and common council or trustees, but no such moneys must be expended for any purpose other than that for which said moneys were obtained by the sale of said bonds. And it shall be the duty of the city or town officials to levy, collect and apply the tax, herein provided for, to the payment of interest and redemption of the principal of the bonds in the manner specified, and for no other purpose, and any failure to comply with the provisions of this act, by the proper officers, or any neglect or refusal to levy and collect any such tax, as aforesaid, shall be deemed a misdemeanor, and any city or town official guilty of the same must, upon conviction, be fined in an amount equal to the sum that should have been levied, or for any misappropriation he shall be fined in an amount equal to the sum so misappropriated, and imprisoned in the city or town jail not exceeding three months.

SEC. 8. Whereas an emergency exists, in the opinion of this legislature, therefore this act shall take effect and be in force from and after its passage and approval.

SEC. 9. All acts and parts of acts, either special or general, in conflict with the provisions of this act are hereby repealed.

Approved February 24, 1891.

ELECTIONS AND ELECTORS.

AN ACT

TO DEFINE THE QUALIFICATIONS OF ELECTORS, TO PROVIDE FOR NOMINATIONS TO PUBLIC OFFICE, TO AUTHORIZE PROCLAMATIONS AND REGISTRATION, TO GOVERN AND REGULATE ELECTIONS, TO SPECIFY THE DUTIES OF ELECTION OFFICIALS AND THEIR FEES, TO REGULATE PROCEDURE IN CONTESTED ELECTIONS, TO GOVERN AND REGULATE ELECTIONS FOR CHANGING COUNTY SEATS AND COUNTY BOUNDARIES, TO PROVIDE FOR PRINTING AND DISTRIBUTING BALLOTS AND OTHER ELECTION SUPPLIES AT PUBLIC EXPENSE, AND FOR THE PUBLICATION AND DISTRIBUTION OF COPIES OF THE ELECTION LAWS, AND REPEALING ALL TERRITORIAL LAWS ON ELECTIONS.

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

SECTION 1. That the provisions hereinafter enacted shall

regulate and govern all elections hereafter holden in the State of Idaho for election of all officers provided for by the Constitution and the laws of the State of Idaho, at either general or special elections, except school district elections.

SEC. 2. That every male person over the age of twenty-one years, possessing the qualifications following, shall be entitled to vote at all elections. He shall be a citizen of the United States and shall have resided in this State six months immediately preceding the election at which he offers to vote, and in the county thirty days: *Provided*, That no person shall be permitted to vote at any county seat election who has not resided in the county six months and in the precinct ninety days where he offers to vote; nor shall any person be permitted to vote at any election for the division of a county, or striking off from any county any part thereof, who has not the qualifications provided for in section 3, article XVIII, of the Constitution; nor shall any person be denied the right to vote at any school district election, nor to hold any school district office on account of sex.

SEC. 3. No person is permitted to vote who is not registered as provided by law, or who is under guardianship, idiotic or insane, or who has at any place been convicted of treason, felony, embezzlement of public funds, bartering or selling or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the right of citizenship, or who at the time of such election is confined in prison on conviction of a criminal offense, or who after passing the age of eighteen years and since the first day of January, A. D. 1888, has been or is a bigamist or polygamist, or is living or has lived in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this State, or of the United States, forbidding any such crime; or who in any manner teaches or has taught, advises or has advised, counsels or has counseled, aids or has aided, encourages or has encouraged, any person to enter into bigamy, polygamy, or such patriarchal, plural or celestial marriage, or to live in violation of any such law; or to commit any such crime; or who has been a member of, or contributes or has contributed to the support, aid or encouragement of any order, organization, association, corporation or society which teaches or has

taught, advises or has advised, counsels or has counseled, encouraged or aided any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or has taught, advises or has advised that the laws of this State, or of the Territory of Idaho before its admission as a State into the Union, or of the United States applicable to the Territory of Idaho, prescribing rules of civil conduct are not the supreme law.

SEC. 4. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this State, or of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, nor while a student of any institution of learning, nor while kept at any almshouse or other asylum at the public expense.

SEC. 5. Every qualified elector shall be eligible to hold any office of this State for which he is an elector, except as otherwise provided by the Constitution.

Electors are privileged from arrest except for treason, felony, or breach of the peace, during their attendance on election.

The time for holding elections for State, district and county officers, members of Congress and presidential electors.

SEC. 6. A general election shall be held in the several precincts in this State on the Tuesday succeeding the first Monday of November, A. D. 1892, and on the Tuesday succeeding the first Monday of November every alternate year thereafter.

SEC. 7. At the general election, A. D. 1894, and every fourth year thereafter, there shall be elected in every county of the State, a clerk of the district court, who is ex-officio auditor and recorder, and at the general election, A. D. 1892, and every alternate year thereafter, there shall be elected in every county of the State, the following officers, to wit: Three county commissioners, a sheriff, county treasurer, who is ex-officio public administrator; probate judge, who is ex-officio county superintendent of public instruction, and county assessor, who is ex-officio tax collector; one coroner and one surveyor.

SEC. 8. At the general election, A. D. 1892, and every alternate year thereafter, there shall be elected the following State officers, to wit: One Governor, one Lieutenant-

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Governor, one Secretary of State, one State Treasurer, one State Auditor, one Superintendent of Public Instruction, one Attorney-General, and in each representative and senatorial district of the State such representatives and senators as they may severally be entitled to. Also on the first Tuesday succeeding the first Monday of November, A. D. 1892, and every alternate year thereafter, there shall be elected the number of representatives in Congress to which the State may be entitled.

SEC. 9. At the general election, A. D. 1892, and every alternate year thereafter, there shall be elected: One judge of the supreme court, at the general election, A. D. 1894, and every fourth year thereafter there shall be elected in each judicial district of the State, one district judge and one district attorney.

SEC. 10. At the general election, A. D. 1892, and every fourth year thereafter, there shall be elected such a number of electors of President and Vice-President of the United States as the State may be entitled to in the electoral college.

SEC. 11. At the general election, A. D. 1892, and every alternate year thereafter, there shall be elected in each justice's precinct, except wards in incorporated cities, two justices of the peace and one constable, and all other officers, not herein specified, that now are, or hereafter may be created shall, unless otherwise provided, be elected on the day of the general election.

Vacancies in office and special elections.

SEC. 12. All vacancies in any State office, and in the supreme and district courts, or in the office of district attorney, unless otherwise provided for by law, shall be filled by appointment by the Governor, until the next general election after such vacancy occurs, when such vacancy shall be filled by election,

SEC. 13. The regular term of office of State, district and county offices, and the judges of the supreme and district courts, shall commence on the first Monday of January next after their election.

SEC. 14. The senators and representatives shall be elected for the term of two years from and after the first day of December next following the general election.

SEC. 15. Any of the said officers that may be elected or appointed to fill vacancies may qualify and enter upon the

discharge of the duties of their offices immediately thereafter; and, if elected, they may hold the same during the unexpired term for which they were elected, and until their successors are elected and qualified; but if appointed they shall hold the same only until their successors are elected and qualified. Whenever a vacancy occurs in either house of the legislature, the Governor must at once issue a writ of election to fill such vacancy: *Provided*, That it is apparent that there will be a session of the Legislature after such vacancy occurs and before the next general election.

SEC. 16. Special elections shall be conducted and the results thereof canvassed and certified in all respects, as near as practicable, in like manner as general elections, except as otherwise provided; but special elections shall not be held, unless when required by public good, and in no case within ninety days next preceding a general election.

SEC. 17. All vacancies in any county or precinct office of any of the several counties of the State, except that of the county commissioners (who shall be appointed by the Governor,) shall be filled by appointment by the county commissioners of the county in which the vacancy occurs until the next general election, when such vacancy shall be filled by election.

SEC. 18. Whenever the Governor appoints a county commissioner to fill a vacancy in any county, he shall appoint a person who is a resident of the commissioner district of the county in which the vacancy exists.

SEC. 19. Whenever any vacancy shall occur in the office of representative in Congress from the State, it shall be the duty of the Governor to appoint a day to hold a special election to fill such vacancy, and cause notice of such election to be given as required in sections twenty-one and twenty-two of this act.

Election proclamations.

SEC. 20. At least forty days before each general election, and whenever he orders a special election, the Governor must issue an election proclamation under his hand and the great seal of the State of Idaho, and transmit copies thereof to the board of commissioners of the counties in which such elections are to be held.

SEC. 21. Such proclamation must contain a statement of the time of election and the offices to be filled.

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SEC. 22. The clerk of the several boards of county commissioners must, at least twenty-five days before any general election, make out and deliver to the sheriff of his county, three written notices thereof for each election precinct, the said notice to be, as nearly as circumstances will admit, as follows:

Notice is hereby given, that on Tuesday, following the first Monday of November next, at the..... (here designate polling place), in the county of....., an election will be held for members of Congress, State, county, district and precinct officers, (naming the candidates and the offices to be filled, as the case may be), which election shall be open at eight o'clock in the morning and will continue until seven o'clock in the evening of the same day.

Dated this.....day of....., A. D. 18.. (as the case may be).

Signed.....

Clerk of the Board of County Commissioners.

SEC. 23. The sheriff aforesaid, to whom such notices are delivered as aforesaid, must cause to be put up in three of the most public places of each election precinct the notices referring to such election precinct at least twenty days previous to the time of holding any general election; said notices shall be posted as follows: One at the house or place where the election is authorized to be held, and the others at two of the most public and suitable places in the precinct.

SEC. 24. Whenever a special election is ordered by the board of commissioners, notice must be issued and posted in the same manner as for a general election.

Nominations of officers.

SEC. 25. Any convention or primary meeting, as hereafter defined, held for the purpose of making nominations to public office, and also electors to the number hereinafter specified, may nominate candidates for public office to be filled by election within the State. A convention or primary meeting, within the meaning of this act, is an organized assemblage of electors or delegates representing a political party or principle.

SEC. 26. All nominations made by such convention or primary meeting shall be certified as follows:

The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his resi-

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dence, his business, and the office for which he is named, and shall designate in not more than five words, the party or principle which such convention or primary meeting represents, and it shall be signed by the presiding officer and secretary of such convention or primary meeting, who shall add to their signatures their respective places of residence and their business. Such certificates, made out as herein required, shall be delivered by the secretary or president of such convention or primary meeting to the Secretary of State or to the county auditor, as hereinafter required.

SEC. 27. Certificates of nominations of candidates for offices to be filled by the electors of the entire State, or of any division or district greater than a county, shall be filed with the Secretary of State. Certificates of nomination for county and precinct officers shall be filed with the auditor of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal offices shall be filed with the clerks of the respective municipal corporations wherein the officers are to be elected.

SEC. 28. Candidates for public office may be nominated, otherwise than by convention or primary meeting, in the manner following:

A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in section twenty-six of this act, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following numbers: The number of signatures, when the nomination is for a State office, shall not be less than three hundred; for a district office, or subdivision of the State including two or more counties, the number of signatures shall not be less than one hundred and fifty; for a county office, not less than fifty; and for a township, precinct or ward office, not less than ten: *Provided*, That the said signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature his place of residence and his business. Such certificates may be filed as provided for in section twenty-seven of this act, in the same manner and with the same effect as a certificate of nomination made by a party convention or primary meeting: *Provided*, That the registrar of each precinct or

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ward, as the case may be, shall certify to the Secretary of State, the county auditor, or the clerk of the municipality, as the case may be, that all the signers of such certificates are qualified electors and registered according to law for the ensuing election.

SEC. 29. No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall join in nominating more than one person for each office to be filled, and no person shall accept a nomination to more than one office.

SEC. 30. The Secretary of State and the auditors of the several counties and clerks of the several municipal corporations shall cause to be preserved, in their respective offices, for one year, all certificates of nominations filed in their respective offices under the provisions of this act. All such certificates shall be open to public inspection under the proper regulations to be made by the officers with whom the same are filed.

SEC. 31. Certificates of nomination to be filed with the Secretary of State shall be filed not more than sixty days and not less than thirty-five days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the county auditor shall be filed not more than sixty days and not less than twenty-five days before election. Certificates for the nomination of candidates for the municipal offices shall be filed with the clerks of the respective municipal corporations not more than thirty days and not less than ten days previous to the day of election: *Provided*, That the time specified for filing certificates of nominations, as provided in this section, shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise.

SEC. 32. Not less than thirty days before an election to fill any public office, the Secretary of State shall certify to the county auditor of each county within which any of the electors may by law vote for candidates for such office the names and description of each person nominated for such office, as specified in the certificates of nomination filed with the Secretary of State.

SEC. 33. Whenever any person nominated for public office, as in this act provided, shall at least thirty days before election, except in the case of municipal elections, in a writing signed by him, and certified to by the registrar

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of the precinct where the person nominated resides, notifying the officer with whom the certificate nominating him is by this act required to be filed, that he declines such nomination, such nomination shall be void. In municipal elections such declination must be made at least ten days before the election.

SEC. 34. Should any person so nominated die before the printing of the tickets, or decline the nomination as in this act provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination; the certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the Secretary of State, he shall, in certifying the nominations to the various county auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And in the event that he has already sent forth his certificate, he shall forthwith certify to the auditors of the proper counties the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted.

SEC. 35. When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this act to fill such vacancy, the officer whose duty it is to have the tickets printed and distributed, shall thereupon have printed a requisite number of stickers, and shall mail them by

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registered letter to the judges of elections in the various precincts interested in such elections; and the distributing clerk, whose duty it is made by the provisions of this act to distribute the tickets, shall affix such stickers in the proper place on each ticket before it is given out to the elector.

SEC. 36. Whenever a proposed Constitution or constitutional amendment, or other question, is to be submitted to the people of the State for popular vote, the Secretary of State shall duly, and not less than thirty days before election, certify the same to the auditor of each county in the State.

Questions to be submitted to the people of a county or municipality shall be advertised in some newspaper of general circulation in the county or town to be affected at least twice, and twenty days before election.

Election precincts.

SEC. 37. The board of commissioners of each county must establish a convenient number of election precincts therein.

SEC. 38. The board may, from time to time, change the boundaries of, create new, or consolidate established precincts; but they must not alter or change any election precinct, or change the place of holding elections in any precinct, after their regular July meeting next preceding any election: *Provided*, That the precincts and wards established, and the places designated in which to hold elections at the time of the taking effect of this act, shall so remain until changed.

SEC. 39. The board must, in its order appointing judges of election, designate the house or place within the precinct where the election must be held.

SEC. 40. The board of county commissioners of each county of this State must, at their regular meeting in July, 1892, and at their regular meeting in July next preceding each general election thereafter, appoint a registrar for each election precinct in the county, who must be a qualified elector, resident of such precinct, and otherwise a proper person and qualified to perform the duties of such office, and such registrar may hold his office until his successor is appointed and qualified. When any registrar fails to act, or the office becomes vacant, the said board must appoint another registrar; and should the board fail

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to appoint a registrar, or from any cause none should act, the electors may, on the second Saturday of August, at one o'clock p. m., next preceding any general election, to which this chapter is applicable, meet at the place in the precinct appointed by said board for the holding of such elections and elect a registrar.

SEC. 41. The said board must, prior to the first day of August next preceding any general election, cause notice to be given for not less than fifteen days, nor more than thirty days, by publication in some newspaper published in the county, if there be one, otherwise by at least three notices, posted up in different parts of the county, one of which must be at the court house door, of the names and general description of election precincts, the name of the registrar for each, and the time during which registration may be made. The time during which registration is made is as follows:

For every general election to which the provisions of this act are applicable, during every Saturday between the first day of August and the tenth day next preceding such election; at the time of, or before, giving such notice, the board must furnish to each registrar two books, one to be known as the "Election Register," for the registry of qualified electors, and the other for the registry of rejected applicants. Each of said books must be ruled and headed substantially as follows:

Number.	Name of elector.	Dates of Rejection or Dates of Registry.	Age.	Where born.	Description of Residence.	Certificate of Naturalization Exhibit Yes or No.	Remarks.
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Said board must also furnish to the registrar the blank notices, certificates, oaths, and all other blanks, books and papers needed to perform the duties of his office.

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SEC. 42. Before entering upon the duties of his office, each registrar must take and subscribe, before any officer authorized to administer oaths, the "official oath" required of all officers acting under the laws of the State of Idaho, which, when so taken and subscribed, must be by him filed with the clerk of the board of county commissioners, and said registrar may thereupon register his own name in the elector's register.

SEC. 43. He must also, prior to the time of commencement of registration, post notices in at least three public places in different parts of his precinct, as will be most likely to give notice to the inhabitants thereof, giving the time, days and hours during, and the place at, which he will be ready to receive and hear applications for registration, and he must thereafter, on the days named by him, be at the place of registration designated from the hours of nine o'clock a. m. to five o'clock p. m., and from seven o'clock p. m. to nine o'clock p. m., and receive and register the names of all persons applying, who are, or will be on the day of the election for which registration is made, entitled to vote thereat. He must also, on any other day of the week, except holidays, during said time of registration, register any such elector who may find and apply to him at his place of registration, and he may, at any time or place, during said time of registration, register any such elector of his precinct.

FIRST.—He may, at any time, examine under oath any applicant as to his qualifications, and he must likewise examine, also permit any qualified elector of his county to examine, any applicant for registration, either when such applicant is not known to the registrar to be a qualified elector, or when any such qualified elector challenges such applicant, and distinctly states his cause of challenge.

SECOND.—When any applicant claims to be a naturalized citizen, the production by him of his certificate of naturalization is prima facie evidence of his citizenship. If he cannot produce such certificate he must state, under oath, positively, the time when, and place and court where, he was naturalized; also, he must, by his own or other testimony, make it satisfactorily appear to such registrar that he has been duly naturalized, but that his certificate thereof is lost, destroyed, or beyond his control, and thereupon he must be deemed a citizen and entitled to registration if otherwise qualified. All examinations before such

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registrar must be reduced to writing when desired by such applicant, challenging elector, or registrar, but such examination for any one applicant shall not exceed one-half hour, without the consent of the registrar.

If any applicant refuses to answer all questions, give all information under his control, take all oaths, and do all other acts and things required of him by law, his application must be rejected by the registrar.

The registrar must, before he registers any applicant, require him to take and subscribe the oath to be known as the "Elector's Oath," which is as follows:

Elector Oath.

I do swear, or affirm, that I am a male citizen of the United States, of the age of twenty-one years, (or will be) the day of, A. D. 18.., (naming date of next succeeding election); that I have (or will have) actually resided in this State for six months and in the county for thirty days next preceding the next ensuing election. (In case of any election requiring a different time of residence, so make it.) That I have never been convicted of treason, felony, embezzlement of public funds, bartering or selling or offering to barter or sell my vote, or purchasing or offering to purchase the vote of another, or other infamous crime, without thereafter being restored to the right of citizenship; that since the first day of January, A. D. 1888, and since I have been eighteen years of age, I have not been a bigamist or polygamist, or have lived in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this State, or of the United States, forbidding any such crime; and I have not, during said time, taught, advised, counseled, aided or encouraged any person to enter into bigamy, polygamy, or such patriarchal, plural or celestial marriage, or to live in violation of any such law, or to commit any such crime. Nor have I been a member of, or contributed to, the support, aid or encouragement of any order, organization, association, corporation or society which, through its recognized teachers, printed or published creed, or other doctrinal works, or in any other manner, teaches or has taught, advises or has advised, counsels, encourages or aids, or has counseled, encouraged or aided, any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or has taught, advises or has advised, that the

laws of this State or of the Territory of Idaho, or of the United States, applicable to said Territory prescribing rules of civil conduct are not the supreme law.

That I will not commit any act in violation of the provisions in this oath contained; that I am not now registered or entitled to vote at any other place in this State; that I do regard the Constitution of the United States, and the laws thereof, and the Constitution of this State, and the laws thereof, as interpreted by the courts, as the supreme law of the land, the teachings of any order, organization or association to the contrary notwithstanding. When made before a judge of election, add: "And I have not previously voted at this election." So help me God.

Subscribed and sworn to before me this .. day of,
A. D. 18..

Register of Precinct, County, Idaho.

THIRD.—When the registrar admits any one to registration, he must enter in the proper column of the "Elector's Register" the number, name in full, (except any middle name, which may be by initial), date of registry, age, place of nativity and residence of the elector so admitted; the residence must be so described, by giving the house, street, ward, or part of the precinct he resides in, that it may easily be found; also it shall be stated, if a naturalized citizen, whether or not he produced his certificate, and the registrar may, in the column of remarks, add any pertinent notes.

He must also enter the names, with statements similar to the above, of all persons who are refused registration, in the book kept for that purpose, and therein state the reasons of such refusal.

FOURTH.—During the time between the last day of registration and the day of election each registrar must prepare from his "Elector's Register" two "check lists" of all the names registered by him, arranged alphabetically, according to the surname, placing on the left of the name the same number it bears in the "Elector's Register," and on the right of the column of names a blank column, in which to indicate, by the word "voted," when the elector votes; said "check lists" must have a heading, showing for and at what election it was prepared and used; they must be carefully prepared, without interlineations, in legible writing, certified and sworn to by the registrar, and, not

later than the next day preceding the election, he must deliver to one of the judges of election of his precinct his "Elector's Register," and the register containing the names of those refused registration, and to the other two judges, who are not of the same political party, a copy each of said "check lists;" and such judges must, as the electors vote, write the word "voted" opposite their names in said "check lists," while the clerks of election keep the record of electors voting, as elsewhere provided in the election law.

SEC. 44. All persons offering to vote at any election are subject to challenge, as provided by the election laws, but registration of any elector's name is *prima facie* evidence of his right to vote, and no person shall vote unless he is first registered.

Each registrar, after so preparing his "check lists," must arrange the "Electors Oaths" taken before him in the order the names of the electors who took them appear upon the "check lists," and attach them together, putting the names under each letter in a separate package; and all such oaths, certificates and written testimony taken by the registrar, and the register books of electors and persons rejected, delivered to said judges, must all be transmitted, as other election returns, to the clerk of the board of county commissioners, who must preserve the same for at least one year.

SEC. 45. Each registrar must, twenty-five days previous to the day of election, notify the clerk of the board of county commissioners of their respective counties of the probable number of tickets required for the precinct in which he is registrar, basing his estimate upon the number of registered electors, allowing a sufficient number for contingencies.

SEC. 46. When a registered elector desires to remove from a precinct where he is registered, he may, at any time before the registrar has closed his registration books, apply to such registrar to have his name stricken from the register, and the registrar must then strike the name of such elector from the register.

SEC. 47. Should any registrar at any time refuse to register any applicant, such applicant may apply to the district court, or the judge thereof, for a writ of mandate to compel the registrar to register him, and the provisions of the code of civil procedure in similar proceedings are applicable.

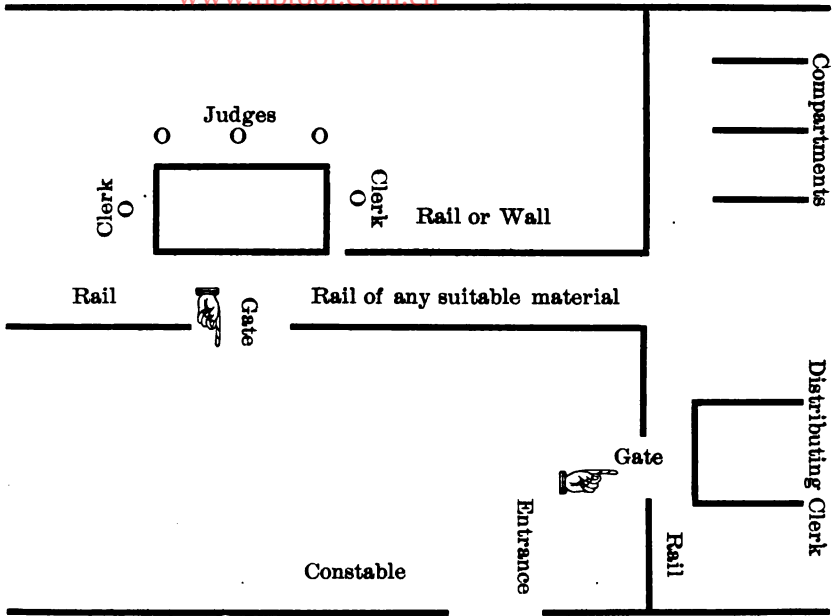
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SEC. 48. The several registrars shall receive such compensation as shall be allowed by the board of county commissioners, which in no case shall exceed twenty-five cents for each name registered, and the compensation herein provided for shall be paid out of the "current expense" or "county general" fund.

SEC. 49. It is the duty of the county commissioners, at their regular session in July next preceding a general election, to appoint four capable and discreet persons possessing the qualifications of electors, three of such persons to act as judges of election, and one to act as distributing clerk of election at each election precinct; and the clerk of the board must make out and deliver to the sheriff of the county, immediately after the appointment of such judges and distributing clerk, a notice thereof, in writing, directed to the judges and distributing clerk so appointed; and the sheriff, within ten days of the receipt of said notice, must serve the same upon each of the said judges and distributing clerk of election by registered mail. If in any precinct any of said judges or distributing clerk do not serve, the voters of said precinct may elect a judge or judges or distributing clerk to fill the vacancy on the morning of the election, to serve at such election.

SEC. 50. The selection of officers must, as nearly as practicable, represent all the different political parties or principles as represented by the nominees in each county.

SEC. 51. The county commissioners of each county, at their meeting in July next preceding any general election, shall designate and appoint suitable polling places, throughout the county, and shall cause the same to be suitably provided with a sufficient number of voting shelves or compartments, at or in which voters may conveniently mark their ballots, so that in the marking thereof they may be screened from the observation of others, and a guard rail shall be so constructed and placed that only such persons as are inside said rail can approach within ten feet of the ballot boxes and of such voting shelves, places or compartments as are herein provided for. The arrangement shall be such that neither the ballot boxes nor the voting shelves or compartments shall be hidden from view of those just outside the said guard rail, and such polling places shall be as near as practicable in the following form:

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The number of such voting shelves or compartments shall not be less than one for every fifty electors, or fraction thereof, registered in the precinct, and the expense of providing such polling places, compartments, guard rails, and all necessary supplies shall be a public charge, and shall be provided in the same manner as other election expenses. Each voting shelf or compartment shall be kept provided with proper supplies and conveniences for marking the tickets. At their regular meeting in July next preceding any election, the board of county commissioners of each county shall, as far as necessary, alter or divide the election precincts in such manner that each election precinct shall not contain more than four hundred voters: *Provided*, That in precincts containing less than twenty-five registered voters the election may be conducted under the provisions of this act without the preparation of such booths or compartments as required in this section.

SEC. 52. In all municipal elections the duties specified in the preceding section as devolving on the county commissioners shall devolve on the officers in each city or town whose duty it is to designate and appoint polling places therein.

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SEC. 53. The board of county commissioners shall, at their regular meeting in July next preceding a regular election, make provision for an official election stamp (which must bear the "date" and "year" of the election at which it is used, and the words "official ballot"), of such character or device, and of such material, as said board may select, and such official stamp must be changed at each general election and kept secret by the officers furnishing and using it, as provided by law, and no one else must know of its form or make until used according to law. It is also the duty of the county commissioners, at their regular session in July next preceding a general election, to authorize the county auditor to provide a suitable number of election tickets for the county, said tickets to be printed under the same regulations as other county printing. The tickets must be bound in book form, each book containing one hundred tickets and printed in the manner prescribed by law.

SEC. 54. The county commissioners must provide, at the expense of the county, suitable ballot boxes, with lock and key, and an opening in the lid sufficient to admit a single folded ballot, and no larger, and similar boxes for the use of the distributing clerks, in which they shall deposit defaced, mutilated and returned ballots. The keys must be delivered to one of the judges designated by the board.

Duties of county auditors and municipal clerks.

SEC. 55. Except as in this act otherwise provided, it shall be the duty of the county auditor of each county to provide printed ballots for every election for public officers in which electors, or any of the electors, within the county participate, and cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the county auditor in the manner provided for in this act. Ballots, other than those printed by the respective county auditors according to the provisions of this act, shall not be cast or counted in any election. Nothing in this act contained shall prevent any voter from writing on his ticket the name of any person for whom he desires to vote for an office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter. The voter may place a cross (x) opposite the name he has written, but his having written the name of his choice is

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sufficient evidence that such is the person for whom he desires to vote.

SEC. 56. Elections for school district officers are excepted from the provisions of the preceding section. In all municipal elections the duties specified in the preceding section as devolving on the county auditor shall devolve on the municipal clerk.

SEC. 57. All election tickets prepared under the provisions of this act shall be white in color, and of a good quality of printing paper, and the names shall be printed thereon in black ink. Every ticket shall contain the name of every candidate whose nomination for any office specified in the ticket has been certified or filed according to the provisions of this act, and no other names. The ticket shall be of sufficient size to contain the names of all the candidates and questions to be voted on, exclusive of the stub or counterfoil. The width of the stub or counterfoil shall be two inches, and of the same length as the ticket. Each stub or counterfoil shall be consecutively numbered, beginning with number one; the ticket and stub being connected by a perforated line. The width of the ticket shall be divided into as many equal parts by lines the whole length of the ticket, as hereinafter shown, as there are political principles or parties represented by the candidates; each of said parts or divisions to have a heading or caption designating the political principle or party represented by the several candidates, and said headings or captions shall be printed on one straight line, and in the size of type known as long primer. One of such divisions or spaces shall have no heading or caption; the names of the offices to be filled and questions to be submitted shall be printed as on other portions of the ticket and printed in the same continuous straight line, leaving the space below the office designated, so that the voter may write the name (if he so desires) of the person for whom he wishes to vote; provided a space or margin of the width of one-half inch is allowed to the right of the name of each candidate or question to be submitted for the voter to designate by placing a cross mark (x) opposite the name of the person for whom he wishes to vote, and his answer to the questions submitted; and on the ticket may be printed such words as will aid the voter to do this, as "vote for one," "vote for three," "yes," "no," and the like. The names of candidates for the offices of electors of President

and Vice-President of the United States shall be arranged in groups, under the political heading or principle designated by the several certificates of nomination or nomination papers.

Whenever a constitutional amendment, or other question, is submitted to the vote of the people, such questions shall be printed upon the ticket after the list of candidates. The names of the persons voted (for) shall be printed in long primer capitals, the name of the office in small capitals, and both without spaces except between the different words or initials of each line. The same margins shall be left above the printed matter as below it, and the side margins must be equal in size. The lines must be straight, and the matter single leaded, and the face of the ticket and stub must be substantially in the following form:

No. 1.

"STUB." NAME OF COUNTY, DATE OF ELECTION. Perforated Line.	REPUBLICAN.		DEMOCRATIC.		INDEPENDENT LABOR.		
	For Congress.		For Congress.		For Congress.		For Congress.
	A. B.	X	C. D.		E. F.		
	For Governor.		For Governor.		For Governor.		For Governor.
	G. H.		I. J.		K. L.	X	
	For State Senator.		For State Senator.		For State Senator.		For State Senator.
	M. N.		O. P.	X	Q. R.		
	Vote for two (2) For House of Representat'v's		Vote for two (2) For House of Representat'v's		Vote for two (2) For House of Representat'v's		Vote for two (2) For House of Representat'v's
	S. T.		U. V.		W. X.		
	Y. Z.		A. B.		C. D.		
	For Sheriff.		For Sheriff.		For Sheriff.		For Sheriff.
	E. F.		G. H.		I. J.		
	For County Recorder.		For County Recorder.		For County Recorder.		For County Recorder.
	K. L.		M. N.		Q. P.	X	
	Shall bonds be sold for school house?					Yes.	X
					No.		

SEC. 58. Whenever the Secretary of State has duly certified to the county auditor any question to be submitted to a vote of the people, the county auditor shall have printed on the regular tickets the question, in such form as will enable the electors to vote upon the question so presented in the manner as in this act provided. The

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county auditor shall also prepare the necessary tickets whenever any question is required 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 tickets.

SEC. 59. Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names or descriptions of the candidates nominated for office, or in the printing of the tickets, the probate court of the county may, upon application of any elector, by order, require the county auditor or municipal clerk to correct such error, or to show cause why such error should not be corrected.

SEC. 60. No ballot must be used or counted at any election except the legal ballot printed by the county auditor, or, in the case of municipal elections, by the clerk of the municipality, and distributed according to law by the distributing clerk within the polling place. And no ticket must be distributed by the distributing clerk, or permitted to be used by the election officers, which has any mark or thing on the back or outside thereof whereby it might be distinguished from any other ballot legally used on the same day. No ballot or ticket printed in imitation of the legal ticket furnished by the county auditor, or, in the case of municipal elections, by the clerk of the municipality, according to law, shall be circulated on the day of election, or brought into the polling place, and no elector shall be permitted to vote any other ballot than the one he received from the distributing clerk.

SEC. 61. Every ticket, when used as a ballot, must be folded so as to conceal its contents and to expose the impression of the official election stamp on the back.

SEC. 62. It shall be the duty of the county auditor of the county (or the municipal clerk in the case of municipal elections) to furnish and cause to be delivered to the judges of election of each election precinct within the county (or within the municipality in case of municipal elections), and in which the election is to be held, at the polling place of the precinct before the opening of the polls, the proper number of tickets as required by this act: *Provided,* That not less than one hundred tickets shall be furnished for each fifty or fraction of fifty electors registered in each precinct in the

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county (and in the case of municipal elections, each precinct in the municipality).

SEC. 63. The county auditor of each county shall keep a record of the number of tickets printed and furnished to each polling place and preserve the same for one year.

SEC. 64. The required number of tickets, together with the official stamp and ink pad for the purpose of stamping or designating the official tickets, as hereinbefore provided, shall be delivered to the judges of election in sealed packages, with marks on the outside clearly designating the polling place for which they are intended, upon receipt of which at least a majority of the judges of election must return receipts therefor to the county auditor in case of county elections (and to the clerk of the municipality in the case of municipal elections) and the several auditors and clerks shall preserve the receipts for one year.

SEC. 65. The county auditor of each county, in case of a general election, and the several city clerks in case of city elections, shall prepare full instructions for the guidance of voters at such elections, as to obtaining tickets, as to the manner of marking them, and as to obtaining new tickets in place of those accidentally spoiled, and they shall respectively cause the same, together with copies of sections three, four and five of an act relating to crimes against the election franchise, to be printed in large, clear type, on separate cards, to be called cards of instruction. The county auditor of each county, and the several city clerks, (in case of a municipal election), shall furnish four such cards to the judges of election in each election precinct, and one additional card for each fifty registered electors or fractional part thereof at the same time and in the same manner as the printed tickets. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of tickets, and not less than three of such cards elsewhere in and about the polling places, upon the day of election. The county auditor of each county (and the several city clerks, in case of a municipal election) shall cause to be printed on tinted or colored paper, without official indorsement of any kind, and furnished to the judges of election of each election precinct, at the same time and in the same manner as the official tickets and official stamps, six sample or specimen tickets and one additional sample ticket for each fifty registered electors or fractional part thereof in the precinct. The sample

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tickets shall be printed like the official or regular tickets, and the same size without the stub. There shall be posted in each of the compartments or booths, one of the sample tickets without the official stamp, and not less than four such tickets posted elsewhere in and about the polling places on the day of election. It shall be the duty of the same officers, at the same time and in the same manner, to provide and furnish to each polling place proper and necessary supplies and conveniences for marking the tickets.

SEC. 66. It is the duty of the clerk of the board of commissioners of each county, on the receipt of the returns of any general or special election, to make out his certificate, stating therein the compensation to which the judges and clerks of the election are entitled for their services, and lay the same before the county commissioners at their next session, and the board of commissioners must order the compensation paid out of the county treasury. The compensation of judges of election and clerks is four dollars per day, and of constables, on duty at polling places, three dollars per day.

Conduct of Elections.

SEC. 67. Before opening the polls, all officers of election must take and subscribe an oath to faithfully perform the duties imposed upon them by law.

Any elector of the township may administer and certify such oath.

SEC. 68. At all elections to be held under this title, the polls must be opened at the hour of eight o'clock in the forenoon, if the regularly appointed judges of election and distributing clerk are present; but in case they are not present, then the polls must not be opened by judges or distributing clerk elected until the hour of nine o'clock, unless a majority of the regular appointed judges are present, and the polls must continue open until seven o'clock in the evening of the same day, at which time the polls must be closed; and upon opening the polls, one of the clerks, under the direction of the judges, must make proclamation of the same; and thirty minutes before closing the polls, proclamation must be made in like manner, and the polls closed in half an hour thereafter.

SEC. 69. Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after having assembled as near

as practicable to such place, and before receiving any vote, may adjourn to the nearest convenient place for holding the election, and at such adjourned place forthwith proceed with the election.

SEC. 70. Upon adjourning any election, as provided in the preceding section, the judges shall cause proclamation thereof to be made, and shall post a notice upon the place where the adjournment was made from, notifying electors of the change of polling place.

SEC. 71. If in any precinct any of said judges or distributing clerk do not serve, the voters of said precinct may elect a judge or judges or distributing clerk to fill the vacancy, on the morning of the election, to serve at such election.

SEC. 72. The election of officers must, as nearly as practicable, represent all the different political parties or principles as represented by the nominees in each county.

SEC. 73. Before receiving any ballots the judge must, in the presence of any persons assembled at the polling place, open and exhibit, close and lock the ballot boxes, and thereafter they must not be removed from the polling place until all the ballots are counted, nor must they be opened until after the polls are finally closed and in the presence of the bystanders.

SEC. 74. The judges of election, on the opening of the polls, must break the sealed packages of election tickets, official stamp and other supplies, in the presence of bystanders.

SEC. 75. Either judge may administer the oath and certify the same required to be administered during the progress of an election, and either judge may challenge a voter of whom he is in doubt as to his qualifications to vote, but in such case one of the remaining judges must administer the oath.

SEC. 76. The judges must choose two persons having similar qualifications with themselves to act as clerks of the election.

The said judges and distributing clerk shall be and continue judges and distributing clerk of all elections of civil officers to be held in their respective wards or precincts until other judges and distributing clerk are appointed, and the said clerks of election may continue to act as such during the pleasure of the judges of election; and the county commissioners must, from time to time, fill all

vacancies which may occur in the office of judges of election and distributing clerk at any election precinct within their respective counties.

Voting.

SEC. 77. An elector desiring to vote shall give his name and, if requested so to do, his residence, to one of the clerks of election, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found on the check list by the election officer having charge thereof, he shall likewise repeat the said name, and the voter shall be allowed to enter the space enclosed by the guard-rail as hereinbefore provided. The distributing clerk shall give him one, and only one, ticket, and his name shall be immediately checked on said list by placing a mark on the registry list to denote that he has received a ticket, and the ticket must be stamped on the back and near the top of the ticket with the "Official Stamp" by the distributing clerk, and thereupon delivered to the elector. Besides the election officers not more than one voter in excess of the voting shelves or compartments provided shall be allowed in said enclosed space at one time.

SEC. 78. On receipt of his ticket, the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments so provided, and shall prepare his ticket by marking in the appropriate margin, or place a cross (x) opposite the name of the candidate of his choice for each office to be filled, or by filling in or writing the name of the person for whom he wishes to vote in the blank space provided therefor in the column or division of the ticket for that purpose provided, and marking a cross (x) opposite thereto; and in case of a question submitted to a vote of the people, by marking in the appropriate margin or place a cross (x) against the answer for which he desires to give. Before leaving the voting shelf or compartment, the voter shall fold his ticket, without displaying the marks thereon, and so as to expose the impression of the official stamp on the back, and he shall keep the same so folded until he has voted. He shall then hand his ballot to one of the judges and announce his name. He shall mark his ticket or ballot without delay, and shall quit said enclosed space as soon as he has voted. No such voter shall be allowed to occupy a voting shelf or

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compartment already occupied by another, nor to remain within said enclosed space more than ten minutes, nor to occupy a voting shelf or compartment more than five minutes in case all of such shelves or compartments are in use and other voters are waiting to occupy the same. No voter, not an election officer, whose name has been checked on the list of the election officers, shall be allowed to re-enter said enclosed space during said election. It shall be the duty of the judges for the time being to secure the observance of the provisions of this section.

SEC. 79. No person shall take or remove any ticket from the polling place before the close of the polls. If an elector inadvertently or by mistake spoils a ticket, he shall return it folded to the distributing clerk, who must, if satisfied of such inadvertence, give him another ticket. The ticket thus returned, shall, without examination, be immediately cancelled by writing across the back, or outside of the ticket as folded, the words "spoiled ticket, another issued," and deposit the defaced ticket in a box provided for that purpose. And no one shall be allowed within the guard-rails of the polling place, except the election officers duly appointed, together with the number of voters, as provided in this act.

Poll lists.

SEC. 80. The following is the form of poll lists to be kept by the judges and clerks of election:

Poll lists

Of the election held in the precinct of, in the County of, on the .. day of, in the year A. D. one thousand eight hundred and A. B., C. D. and E. F., judges, and G. H., I. J. and K. L., clerks, of said election, were respectively sworn (or affirmed), as the law directs, previous to their entering on the duties of their respective offices.

Number and names of electors voting.

No.	Name.	No.	Name.
1.	A. B.	3.	E. F.
2.	C. D.	4.	G. H.

We hereby certify that the number of electors voting at this election amounts to

Attest:

G. H.,	{	Clerks.	A. B.,	{	Judges of election
I. J.,			C. D.,		
K. L.			E. F.		

Voting and challenges.

SEC. 81. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain open.

SEC. 82. The judge to whom any ballot may be delivered shall, upon the receipt thereof, pronounce in an audible voice the name of the elector, and if no objection shall be made to him, and the judges are satisfied that he is a legal voter, and is duly registered, and the official stamp is plainly visible on the outside of the folded ballot, he shall, without opening or examining, immediately deposit the ballot in the ballot box, and the clerks of the election shall enter the name of the elector in the poll books.

SEC. 83. No judge of election shall deposit in any ballot box any ballot upon which the "official stamp," as hereinbefore provided for, does not appear. Every person violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 84. No officer, judge or clerk shall communicate, except for some purpose authorized by law, before the polls are closed, any information as to the name or number on the registry list of any elector who has not applied for a ticket, or who has not voted at the polling place; and no officer, judge or clerk, or other persons, whomsoever, shall interfere with, or attempt to interfere with, a voter when marking his ticket.

No officer, judge or clerk, or other person shall, directly or indirectly, attempt to induce any voter to display his ticket after he shall have marked the same, or to make known to any person the name of any candidate for or against whom he may have voted.

SEC. 85. The constable of the precinct shall be in attendance at the polling place on the day of election, and, where there is no constable, the judges of election may appoint some capable person to act as such during the election, and he shall have the power to make arrests for disturbance of the peace, as provided by law for such officers,

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and he shall allow no one within the guard rail of the polling place except those who go to vote, and shall allow but one elector in a compartment at one time.

SEC. 86. In case any person offering to vote is challenged, one of the judges must declare the qualifications of an elector to such person; if the person so challenged then declare himself duly qualified, and the challenge is not withdrawn, one of the judges must then tender him the electors oath, as provided for in section forty-three of this act.

SEC. 87. If the person be challenged as unqualified, on the ground that he is not a citizen, and will not exhibit his papers pertaining to his naturalization, the judges, or one of them, shall put the following questions:

FIRST.—Are you a citizen of the United States?

SECOND.—Are you a native or naturalized citizen?

THIRD.—Have you become a citizen of the United States by reason of the naturalization of your parents or one of them?

FOURTH.—Where were your parents, or one of them, naturalized?

If the person offering to vote claims to be a naturalized citizen of the United States he shall state under oath, when and in what courts he was naturalized.

SEC. 88. If the challenge is on the ground that the person challenged has been convicted of felony and has not been pardoned, he must not be questioned; but the fact may be proved by the production of an authenticated copy of the record, or by the oral testimony of two witnesses and the non-production of a pardon.

SEC. 89. The judges of election, in determining the residence of a person offering to vote, shall be governed by the following rules, so far as they may be applicable:

FIRST.—That place shall be held and considered to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

SECOND.—A person shall not be considered or held to have lost his residence who shall leave his home and go into another State, Territory, or county of this State, for temporary purposes merely, with an intention of returning.

THIRD.—If a person remove to any other State, or to any of the Territories, with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in this State.

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FOURTH.—If a person remove from one county, precinct or ward in this State to any other county, precinct or ward in this State with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in the county, precinct or ward from which he removed.

SEC. 90. If the person be challenged as unqualified, on the ground that he has not resided in this State for six months immediately preceding the election, the judges, or one of them, shall put the following questions:

FIRST.—Have you resided in this State for six months immediately preceding this election, and during that time have you retained a home or domicile elsewhere?

SECOND.—Have you been absent from this State within the six months immediately preceding this election?

THIRD.—If so, when you left, was it for a temporary purpose, with the design of returning, or did you intend remaining away?

FOURTH.—Did you, while absent, look upon and regard this State as your home?

FIFTH.—Did you, while absent, vote in any State or Territory?

If the person be challenged on the ground that he has not resided in the county thirty days, one of the judges shall question him as to his residence in the county, precinct or ward in a manner similar to the before-mentioned method of questioning a person as to his residence in this State.

If the person be challenged as unqualified, on the ground that he is not twenty-one years of age, the judges, or one of them, shall put the following question: Are you twenty-one years of age, to the best of your knowledge and belief? The judges of election, or one of them, shall put all such other questions to the person challenged under the respective heads aforesaid, as may be necessary to test his qualifications as an elector at that election.

SEC. 91. If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him as aforesaid, one of the judges shall tender to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years; that you have been a resident of this State for six months next immediately preceding this election, and have not retained a home or domicile elsewhere; that you have

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been for the last thirty days, and now are, a resident of this county; that you have been for the last ten days, and now are, a resident of this precinct (or ward as the case may be) and that you have not voted at this election."

SEC. 92. If any person shall refuse to take the oath or affirmation so tendered his vote shall be rejected: *Provided*, That after such oath shall have been taken, the judges may nevertheless refuse to permit such person to vote if they shall be satisfied that he is not a legal voter.

SEC. 93. Whenever any person's vote shall be received after having taken the oath or affirmation prescribed in section ninety of this act, it shall be the duty of the clerks of the election to write on the poll books, at the end of the person's name, "Sworn."

SEC. 94. It shall be the duty of any judge of election to challenge any person offering to vote whom he believes not to be qualified as an elector.

SEC. 95. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions touching the matter of naturalization, he must not be allowed to vote.

SEC. 96. As soon as the polls are finally closed the distributing clerk must deliver to the judges of election the book or books of tickets from which tickets have been taken during the election, and the box containing the defaced, mutilated or returned ballots.

SEC. 97. And the judges of election must immediately proceed to canvass the votes given at such election. The canvass must be public, in the presence of bystanders, and must be continued without adjournment until completed and the result thereof declared.

SEC. 98. The canvass must commence by comparison of the poll lists from the commencement, and a correction of any mistake that may be found therein, until they are found to agree. The box must then be opened, and the ballots found therein counted by the judges, unopened, and the number of ballots in the box must agree with the number marked on the poll list or registry list as having received a ticket, and this number, together with the number of defaced, mutilated and returned ballots must agree with the number of stubs or counterfoils in the books from which the tickets have been taken.

Any ballot or part of a ballot from which it is impossible to determine the elector's choice, shall be void and shall

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not be counted: *Provided*, That when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges to count such part.

SEC. 99. The ballots and poll lists agreeing, the board must then proceed to count and ascertain the number of votes cast, and the clerks must set down in their poll books the name of every person voted for, and then at full length the office for which such person received such votes, and the number he did receive, the number being expressed at full length; such entry to be made, as nearly as circumstances will permit, in the following form, to wit:

At an election held at the house of (A. B.), in the town (district or precinct) of, in the County of, and in the State of Idaho, on the .. day of, A. D., the following named persons received the number of votes annexed to their respective names for the following described offices, to wit: (A. B.) has .. votes for member of Congress; (I. J.) has .. votes for member of State senate; (K. L.) has .. votes for member of house of representatives, (and in like manner for any other person voted for). Certified by us,

Attest:

S. T.,	} Clerks of Election.	M. N.,	} Judges of Election.
U. V.,		O. P.,	
W. Y.,		Q. R.	

SEC. 100. After the canvass of the vote the judges of election must inclose and seal one of the poll books; also, all stubs and unused ticket books, and defaced or mutilated ballots, and the election stamp, under cover, directed to the clerk of the board of county commissioners of the county in which such election was held. And the package thus sealed must be delivered direct to the said clerk personally, or transmitted by special messenger without expense to the county, or deposited in the nearest post-office by one of said judges, to be chosen by lot. And the postage thereon and the fees for registering the same must be fully prepaid. And said package must be duly registered and receipt therefor taken. And the other poll book and poll list, together with the ballots, must be, by said judges, placed in the ballot box, and by them sealed up and then deposited with one of said judges, to be decided by lot, if they cannot otherwise agree. And the said poll books and ballots must be kept with the seal unbroken for

at least eight months, unless the same is required as evidence in a court of law in any case arising under the election laws of this State, and then only when the judge having said ballot box in charge is served with a subpoena requiring him to produce the same in court as evidence in any such before-mentioned case, when the same may be opened under the direction of said court.

Canvass of returns, declaration of result, and certificates of election.

SEC. 101. The board of county commissioners, the auditor acting as clerk, in the several counties, must act as a board of canvassers of elections, and must, on the tenth day after any general or special election, or sooner, if all the returns be received and any two of the commissioners are present, proceed publicly, at their office, to open the returns and canvass the votes of said election, and make up abstracts thereof; and it is their duty to canvass and make up abstracts of all returns that are intelligible on their face and which are sufficiently authenticated to show what returns they are; and if any returns are rejected on account of informality, ambiguity or uncertainty—and none must be rejected for other causes—then it is the duty of the board to deliver the returns so rejected to the sheriff of the county, who must proceed at once to summons and call together the board of judges of election of the precinct from which said returns were received, and inform them that such return has been rejected; and it is the duty of such board of judges to meet publicly, at the place where the election was held in their precinct, immediately after receiving such notice, and at once proceed to put said return in due form and certify to the same; and for the purpose of so doing they may have the ballot box brought in and opened in their presence, the contents thereof inspected, and when said returns have been duly corrected they must be delivered into the hands of the sheriff, and the board of canvassers may adjourn, to await the correction of said returns, for the period of not more than five days at one time, nor more than ten days in all. When said canvass is completed, the abstract must be made up and signed by the board. The abstracts shall be made out in the following manner:

The abstract of votes for electors for President and Vice-President of the United States shall be on one sheet, and

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the abstract of votes for Representative in Congress shall be on another sheet, and the abstract of votes for officers of the executive department shall be on another sheet, and the abstract of votes for senators shall be on another sheet, and the abstract of votes for representatives shall be on another sheet, and the abstract of votes for judges of the Supreme court shall be on another sheet, and the abstract of (votes) for judges of the district court and district attorneys shall be on another sheet, and the abstract of votes for county and precinct officers shall be on another sheet; and it shall be the duty of the auditor of the county immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct officers, respectively, and cause such certificate to be delivered to the person entitled to it. If any two or more persons have an equal number of votes for the same county or precinct office, and a higher number than any other person, the county commissioners shall immediately determine by lot which of the two candidates shall be elected.

SEC. 102. The auditor of the county, immediately after making out abstracts of votes given in his county, shall make a copy of such abstract and deliver or transmit the same in a registered package by mail to the office of the Secretary of State; the original abstracts he shall file and record in a book in his office to be kept for that purpose. He shall also certify to the abstracts and copies and affix thereto the county seal, and the said auditor shall indorse on the back of each abstract: "Certified copy of the abstract of votes cast for Governor, etc., members of the legislature, etc., (as the case may be), cast at the regular election in county,, 18...

SEC. 103. The Governor, Secretary of State, Auditor of State, Treasurer of State and Attorney-General, or any three of them, shall constitute the board of State canvassers, and shall canvass the abstracts of votes cast in the different counties of the State for electors of President and Vice-President of the United States, for representative in Congress, for judges of the supreme court and district courts, for district attorneys, and for senators and representatives and all State officers.

SEC. 104. If from any county no such abstract of votes shall have been received within twenty days next after election by the Secretary of State, he shall dispatch a special mes-

senger to obtain a copy of the same from the county auditor of such county, and such county auditor shall immediately, on demand of such messenger, make out and deliver to him the copy required, which copy of the abstract of votes the messenger shall deliver to the Secretary of State without delay. The said messenger shall receive as compensation for his services three dollars per day and fifteen cents per each mile traveled in going to and returning from the county seat of said county, by the usual route, to be paid by the county.

SEC. 105. For the purpose of canvassing the result of elections, the State board of canvassers shall meet at the office of the Secretary of State, at ten o'clock of the forenoon of the twentieth day after any election for any of the officers mentioned in section one hundred and three of this act, if it be not on Sunday; if it be on Sunday, then they shall meet on the twenty-first day, when they shall, if the returns from all the counties of the State be in the possession of the Secretary of State, proceed to canvass the votes; if the returns are not all in, they shall adjourn from time to time, as they deem proper, to await the receipt of all the returns: *Provided, however,* That on the second Wednesday of December next after the election, they shall canvass the votes, whether all the returns be received or not.

SEC. 106. The State board of canvassers, when met in accordance with law and a quorum (three) being present, shall proceed to examine and make statement of the whole number of votes given at any such election for all the officers mentioned in section one hundred and three of this act that shall have been voted for in said election, which statement will show the names of the persons to whom such votes shall have been given for either of the said offices, and the whole number given to each, distinguishing the several districts and counties in which they were given; they shall certify such statement to be correct, and subscribe their names thereto, and they shall thereupon determine what persons have been, by the greatest number of votes, duly elected to such offices, or either of them, and shall indorse and subscribe on such statements a certificate of their determination, and deliver them to the Secretary of State.

SEC. 107. If any two or more persons have an equal and the highest number of votes for member of either house of the legislature, for judge of the supreme or district courts,

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for district attorney, or any State office, the State canvassers shall proceed to determine, by lot, which of the candidates shall be declared elected. Reasonable notice shall be given to each candidate of the time when such election will be so determined.

SEC. 108. The Secretary of State shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination as made by the board of State canvassers, and shall, without delay, make out and transmit to each of the persons thereby declared to be elected a certificate or his election, certified by him under his seal of office.

SEC. 109. Upon the day fixed by law for the assembling of the legislature, the Secretary of State shall lay before each house a list of the members elected thereto, with the districts they represent, in accordance with the returns in his office.

SEC. 110. The Secretary of State shall prepare lists of the names of the electors of President and Vice-President of the United States, elected at any election, procure thereto the signature of the Governor, affix the seal of the State to the same, and deliver one of such certificates thus signed to each of said electors on or before the second Wednesday in December next after such election.

Meeting of electors.

SEC. 111. The electors chosen as aforesaid shall, at twelve o'clock on the day which is or may be directed by the Congress of the United States, meet at the seat of government of this State, and then and there perform the duties enjoined upon them by the Constitution and laws of the United States.

Duties of electors, penalties.

SEC. 112. Each elector of President and Vice-President of the United States shall, before the hour of twelve o'clock on the day next preceding the day fixed by the law of Congress to elect a President and Vice-President, give notice to the Governor that he is at the seat of government and ready at the proper time to perform the duties of an elector; and the Governor shall forthwith deliver to the electors present a certificate of all the names of the electors; and if any elector named therein fails to appear before nine o'clock on the morning of the day of election of

President and Vice-President as aforesaid, the electors then present shall immediately proceed to elect, by ballot, in the presence of the Governor, persons to fill such vacancies.

Vacancies in electors, how filled.

SEC. 113. If more than the number of persons required to fill the vacancies, as aforesaid, have the highest and an equal number of votes, then the Governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected; otherwise they, to the number required, having the greatest number of votes, shall be considered elected to fill such vacancies.

Persons elected to fill vacancies to be notified.

SEC. 114. Immediately after such choice is made the names of the persons so chosen shall forthwith be certified to the Governor by the electors making such choice; and the Governor shall cause immediate notice to be given in writing to the electors chosen to fill such vacancies; and the said persons so chosen shall be electors, and shall meet the other electors at the same time and place, and then and there discharge all and singular the duties enjoined on them as electors aforesaid by the Constitution and laws of the United States and of this State.

SEC. 115. Every elector of this State for the election of President and Vice-President of the United States, hereafter elected, who shall attend and give his vote for those offices at the time and place appointed by law, shall be entitled to receive the sum of five dollars per day for each day's attendance at such election, and fifteen cents per mile for each mile he shall travel, in going to and returning from the place where the electors shall meet, by the most usual traveled route, to be paid out of the general fund, and the Auditor of State shall audit the amount and draw his warrant for the same. There shall be an election held in this State for the election of such electors, at the times appointed by any law of the Congress or the Constitution of the United States for such election, and when such election shall be special, the same shall be called, held and the votes polled, canvassed in all respects as at a general election, and the duties of the electors so elected shall be the same as prescribed by law for electors elected at a general election.

SEC. 116. Whenever the judges of election in any precinct or ward discover in the canvassing of votes that the name of any candidate voted for be mis-spelled, or the initial letters of his Christian name or names be transposed or omitted in part, or altogether, on the ballot, the vote or votes for such candidate shall be counted for him, if the intention of the elector to vote for him be apparent; and whenever the board of county canvassers, or of State canvassers, shall find the returns from any precinct, ward, county or district (as the case may be), do not strictly conform to the requirements of law, in the making, certifying and returning the same, the votes polled in such precinct, ward, county or district shall, nevertheless, be canvassed and counted, if such returns shall be sufficiently explicit to enable such boards, or any person or persons authorized to canvass votes and returns, to determine therefrom how many votes were polled for the several persons who were candidates and voted for at the election of which the votes are being canvassed.

SEC. 117. If upon proceeding to canvass the votes it shall clearly appear to the canvassers that in any statement produced to them certain matters are omitted in such statement which should have been inserted, or that any mistakes which are clerical, merely, exist, they shall cause the said statement to be sent by one of their number (whom they shall depute for that purpose) to the precinct or ward judges, or to the county board of canvassers (as the case may be) from whom they were received, to have the same corrected; and the judges of election or county auditor, (as the case may be), when so demanded, shall make such correction as the facts of the case require, but shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated; and the canvassing board may adjourn from day to day for the purpose of obtaining and receiving such statement: *Provided, always*, That they shall not delay counting, past the day provided by law for the completion of the canvass.

Removal of county seats.

SEC. 118. All elections for the removal of county seats shall be held at the same time and place at which general elections are held.

SEC. 119. Public notice shall be given of the intention to circulate a petition praying for the removal of the

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county seat of any county from its then present location to some other point within said county, and in said petition designated, at least ten days before the same is circulated, by publication in some newspaper printed in the county (if there be one), and by posting three printed notices in three public places at the county seat, and a like number at the place to which the county seat is proposed to be removed, in which notices the intent of said petition shall be set forth; and all signers to such petition or petitions shall be void and stricken from such petition if procured six months before the first day of the term of court at which the application is to be made; and whenever such petition, or petitions, addressed to the district court of such county, and stating the time when such election shall be held, shall be signed by a number of legal voters of said county, equal in number to a majority of all votes cast at the last general election therein, and shall be filed in the office of the clerk of the district court of said county, not less than twenty nor more than forty days before the first day of the term of said court next preceding the next general election, unless said term commences after the first day of October, then, in such case, the next preceding term. Such petition shall be deemed a proposal to remove the county seat of such county, and the point designated in said petition shall be deemed and taken as fixed by said petition, in pursuance of law, whenever the court shall order an election to such point as hereinafter provided, as the point to which it is proposed to remove the county seat of such county.

SEC. 120. Each petitioner signing such petition shall write, or cause to be written, opposite to his name on said petition, the name of the city and ward in which he then resides, if he resides in a city; or, if he does not reside in a city, then the name of the precinct in which he resides at the time of signing such petition; and no person shall sign such petition unless he shall be, at the time, a legal voter at general elections.

SEC. 121. Said petition or petitions shall, after they are filed in the office of the clerk of the district court of the county, be open to inspection of any and all citizens of the county, but shall not be removed therefrom.

SEC. 122. Any citizen and legal voter at general elections in said county may contest the right of any person whose name is subscribed to said petition, to sign

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such petition under this act. And shall have the right to contest said petition as to any names subscribed thereto that he shall have good reason to believe are fictitious: *Provided*, He shall, ten days before the first day of the term of said court, file in the office of the clerk of the district court of such county a list of the names of the persons whose right to sign said petition he is desirous of contesting, together with his affidavit indorsed thereon, that he has good reason to believe, and does verily believe, that such persons named in said list are not legal voters of such county and had no right in law to sign such petition; and shall also file in the office of said clerk, ten days before said term of said court, a list of such names as he has reason to believe are fictitious, together with his affidavit, that he has good reason to believe, and does verily believe, that such names are fictitious; and such persons shall have the right to contest such petitions only as to the names included in said lists.

SEC. 123. It shall be the duty of said court, on the first day of, and during said term of court, to hear all evidence for and against said petition or petitions as to the lists of names filed in said court under this act. And to strike from such petition or petitions all names proven by competent evidence to be fictitious, and the names of persons having no legal right to sign the same under this act. And in case there shall be no contest, or if the court finds, after striking from said petition or petitions all names proven to be fictitious, and all names not legally signed thereto, that it still contains the number of names of legal voters required by this act, the court shall order said election according to the prayer of said petition; in case of a contest to said petition or petitions, it shall be the duty of the clerk of said court, on request of the persons contesting any petition under the provisions of this act, to issue subpoenas for such witnesses as said persons shall name; and it shall be the duty of said clerk, on request of any legal voter of the county for the purpose of sustaining any petition, in like manner to issue subpoenas for such witnesses as he shall name. Said subpoenas to be made returnable to the term of court at which such contest will be made.

SEC. 124. All cases of contest arising upon said petitions or affidavits shall have precedence over all other cases at said term of said court, and shall be heard and determined at said term, and the decision of the court shall be final.

SEC. 125. The voting for the removal of any county seat shall be by ballot, and each ballot shall have printed or written thereon the words stated in section 131 of this act. Such ballot shall be smaller than the general election ballots, and shall be officially stamped, and there shall be printed or written thereon the words "County Seat Ballot," and any elector who is registered, as in this act provided, and who, in addition to being qualified to vote for county officers, has resided in the county six months and in the precinct ninety days, shall be permitted to vote for or against the removal of the county seat, by handing to one of the judges of election a county seat ballot, at the same time announcing that he is entitled to vote on the question of the removal of the county seat. And if the judges of election are of the opinion that the said elector is entitled to vote on the question of the removal of the county seat, his ballot shall then be deposited in the ballot box, and the clerks of election shall write opposite his name in brackets the words ["County seat"] or [County division], as the case may be.

SEC. 126. Any person who offers to vote on the question of the removal of the county seat may be challenged by any person and for any of the reasons allowed for other challenges, and the rules provided for other challenges shall apply to such challenges.

SEC. 127. The returns for county seat elections shall be canvassed by the same officers and in the same manner as the returns for county and precinct officers are canvassed, and the result of the vote for the removal of the county seat shall be officially declared by the county board of canvassers in the following manner:

They shall record the total votes cast in each ward, or precinct, both for and against the proposed removal upon the book provided for recording the results of the general election. This record shall be made upon a separate page, or pages, of said book. and after the record is complete and the total result known, they shall make a complete copy of such record, certified to by each member of the board. They shall deposit this certificate with the county auditor, who shall, without delay, file the same with the clerk of the district court which authorized the election, and the auditor shall also cause a copy of the certificate to be published in some newspaper of general circulation in the county.

SEC. 128. When the attempt has been made to remove the county seat of any county, as in this act provided, and the county board of canvassers have found and declared that two-thirds of the voters of the county who have voted for or against such removal have voted in favor of such removal, then said county seat of said county is thereby removed to the point named in the petition.

Alteration of county lines.

SEC. 129. Whenever the legislature has enacted that a part of any county is stricken off from any county, and annexed to an adjoining county, the provisions of the Constitution being complied with, the qualified electors who have resided ninety days next preceding the first general election after the passage of this act within the boundary lines of the territory stricken off and annexed, shall be permitted to vote at said general election, for or against said annexation. And if a majority of said electors voting at said election vote in favor of annexation, said territory is then stricken off and annexed, as provided in this act: *Provided*, That all the requirements of the Constitution have been complied with.

□ SEC. 130. The rules and regulations for voting at county seat elections, as provided in this act, so far as they apply to ballots—voting, challenging and canvassing the returns—and declaring the result, shall apply to elections for the striking off of any part of any county and annexing the same to any adjoining county.

SEC. 131. It shall be the duty of the auditor of the county wherein it is proposed to hold an election for the removal of the county seat, or changing county lines, to cause to be printed separate ballots at the same time and in the same manner as ballots for the general election are printed.

Such separate ballots shall be three inches square, or as near this size as practicable and on one side there shall be printed the following words:

For removal of the county	}	No.
seat to.....		Yes.
For changing county lines,	}	No.
		Yes.

(as the case may be).

And the Auditor shall send an equal number of these special ballots, with the ballots furnished for the general

election, to each voting precinct of the county and at the same time.

On contesting elections.

SEC. 132. The election of any person to any public office, the location or re-location of a county seat, or any proposition submitted to a vote of the people may be contested:

FIRST.—For malconduct, fraud, or corruption on the part of the judges of election in any precinct, township or ward, or of any board of canvassers, or any member of either board, sufficient to change the result.

SECOND.—When the incumbent was not eligible to the office at the time of the election.

THIRD.—When the incumbent has been convicted of felony, unless at the time of the election he shall have been restored to civil rights.

FOURTH.—When the incumbent has given or offered to any elector, or any judge, clerk, or canvasser of the election, any bribe or reward in money, property, or any thing of value for the purpose of procuring his election.

FIFTH.—When illegal votes have been received or legal votes rejected at the polls sufficient to change the result.

SIXTH.—For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result.

SEVENTH.—When the incumbent is in default as a collector and custodian of public money or property.

EIGHTH.—For any cause which shows that another person was legally elected.

SEC. 133. The term "incumbent" in this chapter means the person whom the canvassers declare elected.

SEC. 134. When the misconduct complained of is on the part of the judges of election, it shall not be held sufficient to set aside the election, unless the vote of the precinct, township or ward would change the result as to that office.

SEC. 135. The legislature, in joint meeting, shall hear and determine cases of the contested election for all officers of the executive department. The meeting of the two houses to decide upon such elections shall be held in the house of representatives, and the speaker of the house shall preside.

SEC. 136. The senate and house of representatives shall severally hear and determine contests of the election of their respective members.

SEC. 137. The supreme court shall hear and determine contests of the election of judges of the supreme court, judges of the district courts, and district attorneys; and in case they shall disagree, the Governor shall act with them in determining the contest, but no judge of the supreme court shall sit upon the hearing of any case in which he is a party.

SEC. 138. The district courts of the respective counties shall hear and determine contests of election in regard to the removal of county seats, and in regard to any other subject which may by law be submitted to the vote of the people of the county, and the proceedings therein shall be conducted as near as may be hereinafter provided for contesting the election of county officers.

SEC. 139. The district courts shall hear and determine contests of all other county, township and precinct officers, and officers of the cities and incorporated villages within the county.

SEC. 140. Whenever any elector of this State chooses to contest the validity of the election of any of the officers of the executive department of the State, or whenever any elector of the proper county or district chooses to contest the election of any member of the legislature from such county or district, such person shall give notice thereof, in writing, and leave a copy thereof with the person whose election he intends to contest, within twenty days after the election; if the person cannot be found in his district, then a copy to be left at his last place of residence in the district, naming the points on which the election shall be contested, and the name of some person authorized by law to administer oaths, selected by him to take the depositions, and the time and place for the taking of the same; the adverse party may also select one such person on his part to attend at the time and place of taking such depositions.

SEC. 141. The notice provided for in the preceding section shall be served at least ten days before the day fixed for the taking of depositions. The said two persons selected as aforesaid to take the depositions shall proceed jointly, or in default of either one of such persons to attend at the time and place fixed upon, the one attending shall proceed to hear and reduce to writing the testimony of all witnesses who may be produced by either of said parties, and may adjourn from day to day until all said testimony shall have been taken and reduced to writing: *Pro-*

vided, That such testimony shall be finally closed on or before the 29th of December following.

SEC. 142. No testimony shall be received by the person officiating at the taking of the depositions on the part of the contestant which does not relate to the points specified in the notice, a copy of which notice shall be delivered to the person or persons so officiating, and said testimony, together with the copy of the notice, when taken, shall be certified by the person or persons before whom the same is taken, enveloped, sealed up, indorsed "depositions taken in the matter of the contest of the election of A. B. to the office of," and directed to the Secretary of State, who shall preserve the same, unopened, till the meeting of the legislature.

SEC. 143. If, at the time of taking depositions to be used before the legislature, or either branch thereof, in the case of a contested election, the notice shall allege that it is necessary for the determination of such contest that the ballots or the poll books of any election district or districts should be inspected, the officer or officers before whom such depositions shall be taken shall, on the request of either party to the contest, issue an order requiring the county auditor, or other person in whose custody or possession the ballots or poll books may be, naming the district or districts mentioned in the notice, to deliver them to the person or persons therein named, who shall deliver them to the person or persons issuing such order. Such officer or officers shall transmit such ballots or poll books, unopened, in the same envelope with the depositions, as provided in the preceding section.

SEC. 144. On the second day of the organization of the legislature, the Secretary of the State shall deliver to the speaker of the house all papers relating to contested elections of executive officers, and to the presiding officers of each house all papers relating to contested elections of the members of their respective houses.

SEC. 145. Upon the reception by such presiding officers of papers relating to contested elections, they shall immediately give notice to their respective houses that such papers are in their possession. Where the papers relate to the contest of an executive State officer, the house of representatives shall notify the senate, and a day shall be fixed by both houses, by concurrent resolution, for the uniting of the two houses to decide upon the same, in

which decision the yeas and nays shall be taken and entered upon the journal.

SEC. 146. The papers relating to any such contest shall be opened only in the presence of the body by the presiding officer, to whom the same shall be delivered. If ballots or poll books are contained therein, they shall after being opened, remain in the custody of such presiding officer, subject to the inspection of the members, unless they shall by vote be temporarily committed to the chairman of a committee, in which case such chairman shall return them to the proper presiding officer; and they shall, upon the decision of the contest, be again sealed up in an envelope and returned by mail or otherwise to the office of the county auditor in which they were first required to be filed.

SEC. 147. All the evidence in any contest provided for in the last preceding section, except ballots or poll books, shall, after a decision thereof, be preserved in the office of the Secretary of State.

SEC. 148. The election of any person declared elected to any office, other than executive State officers and members of the legislature, may be contested by any elector of the State, judicial district, county, township, precinct, city or incorporated village in and for which the person is declared elected.

SEC. 149. The contestant shall file in the proper court, within twenty days after the votes are canvassed, a complaint, setting forth the name of the contestant, and that he is an elector competent to contest such election; the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which complaint shall be verified by the affidavit of the contestant, that the causes set forth are true as he verily believes. The contestant must also file a bond, with security, to be approved by the clerk of the court, or district judge, as the case may be, conditioned to pay all costs in case the election be confirmed, the complaint dismissed, or the prosecution fail.

SEC. 150. When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, if known, with the precinct, township or ward where they voted or offered to vote, shall be set forth in the complaint.

SEC. 151. Upon the filing of such complaint summons shall issue against the person whose office is contested, in

the same manner as in civil actions, and a copy of the complaint shall in all cases accompany the summons.

SEC. 152. The cause shall stand for trial at the expiration of thirty days from the time of service of the summons and complaint, if the court shall then be in session; otherwise, on the first day of the next term thereafter.

SEC. 153. The trial shall proceed at the time appointed, unless postponed for good cause shown by affidavit, the terms of which postponement are in the discretion of the court.

SEC. 154. The proceedings shall be simulated to those in an action, so far as practicable, but shall be under the control and direction of the court, which shall have all the powers necessary to the right hearing and determination of the matter; to compel the attendance of witnesses, swear them and direct their examination; to punish for contempt in its presence or by disobedience to its lawful mandate; to adjourn from day to day; to make any order concerning immediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case.

SEC. 155. The testimony may be oral, or by depositions taken as in other actions in the court where the case is tried. Subpoenas for witnesses may be issued as in other cases any time after the filing of the complaint.

SEC. 156. The proceedings shall not be dismissed for want of form, if the particular causes of contest are alleged with such certainty as will sufficiently advise the incumbent of the real grounds of contest. If any part of the causes are held insufficient they may be amended, but the incumbent will be entitled to an adjournment if he state on oath that he has a matter of answer to the amended causes, for the preparation of which he needs further time. Such adjournment shall be upon such terms as the court deem reasonable; but if all the causes are held insufficient, and an amendment is asked, the adjournment shall be at the cost of the contestant. If no amendment is asked for or made, or in case of entire failure to prosecute, the proceedings may be dismissed.

SEC. 157. The style, form and manner of service of process and papers, and the fees of officers and witnesses shall be the same as in other cases in the court where the cause is tried.

SEC. 158. The court may require any person called as a

witness, who voted at such election, to answer touching his qualifications as a voter; and if he was not a qualified voter in the county where he voted, then to answer for whom he voted; and if the witness answer such questions no part of his testimony on that trial shall be used against him in any criminal action.

SEC. 159. If an inspection of the ballots or poll books of any election district in this State shall become necessary for the determination of any election contest before any court, the presiding judge thereof may by order, naming the district or districts, require the proper officer to procure the same from the county auditor, or other person in whose possession or custody the same may be, and such clerk or person shall deliver the same to said officer, who shall deliver them unopened to such presiding judge.

SEC. 160. The presiding officer shall open and inspect the same in open court, in the presence of the parties or their attorneys, and immediately after such inspection shall again seal them in an envelope and return them, by mail or otherwise, to the office of the county auditor in which they were at first required to be filed.

SEC. 161. The contestant and the incumbent are liable to the officers and witnesses for the costs made by them respectively. But if the election be confirmed, or the complaint be dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs; and if the judgment be against the incumbent, or the election be set aside, it shall be against him for costs.

SEC. 162. The judgment of the court in cases of contested election shall confirm or annul the election according to the right of the matter; or, in case the contest is in relation to the election of some person to an office, shall declare as elected the person who shall appear to be duly elected.

SEC. 163. If it appears that two or more persons have—or would have had if the legal ballots cast or intended to be cast for them had been counted—the highest and equal number of votes for the same office, the persons receiving such votes shall decide by lot, in such manner as the court shall by written order direct, which of them shall be declared duly elected; and the judgment shall be entered accordingly.

SEC. 164. When either the contestant or incumbent shall be in possession of the office by holding over, or other-

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wise, the court shall, if the judgment be against the party so in possession of the office and in favor of his antagonist, issue an order to carry into effect the judgment of the court, which order shall be under the seal of the court, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books and papers belonging to the same; and the sheriff shall execute such order as other writs.

SEC. 165. When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void.

SEC. 166. The party against whom judgment is rendered in cases tried in the district court may appeal to the supreme court, and if the appellant be in possession of the office, such appeal shall not supersede the execution of the judgment of the court, as provided in the preceding section, unless he give a bond with security, to be approved by the court, in a sum to be fixed by the court, and which shall be at least double the probable compensation of such officer for six months, which bond shall be conditioned that he will prosecute his appeal without delay, and that if the judgment appealed from be affirmed, he will pay over to the successful party all compensation received by him while in possession of said office after the judgment appealed from was rendered, and such bond shall contain the express consent that judgment may be rendered against the sureties on the appeal as provided in the following section.

SEC. 167. If upon the appeal the judgment be affirmed, the appellate court shall render judgment against the appellant and the sureties on his bond, or either of them, for the amount which the appellee is entitled to recover from the appellant on account of such contest, together with the costs; but in such case the sureties, or either of them, shall be entitled to produce and examine witnesses concerning the amount of such recovery.

SEC. 168. If upon appeal the appellant shall not be in possession of the office, he shall give bond, with security to be approved by the court where the judgment is rendered, conditioned to pay all costs that may be adjudged against him upon such appeal.

SEC. 169. Every civil office shall be vacant upon the happening of either of the following events at any time before the expiration of the term of such office, as follows:

FIRST.—The resignation of the incumbent.

SECOND.—His death.

THIRD.—His removal from office.

FOURTH.—The decision of a competent tribunal declaring his office vacant.

FIFTH.—His ceasing to be a resident of the State, district, county, in which the duties of his office are to [be] exercised, or for which he may have been elected.

SIXTH.—A failure to elect at the proper election, there being no incumbent to continue in office until his successor is elected and qualified, nor other provisions relating thereto.

SEVENTH.—A forfeiture of office as provided by any law of the State.

EIGHTH.—Conviction of any infamous crime, or of any public offense involving the violation of his oath of office.

NINTH.—The acceptance of a commission to any military office, either in the militia of this State, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the State for a period not less than sixty days.

SEC. 170. Resignations of civil offices may be made as follows:

FIRST.—By the Governor to the legislature, if in session; if not, to the Secretary of State.

SECOND.—By senators and representatives in Congress, and by all officers elected by the qualified voters of the State, and by judges of the supreme court and district courts, district attorneys and regents of the university, to the Governor.

THIRD.—By members of the senate and house of representatives, to the presiding officers of their respective bodies, if in session, who shall immediately transmit information of the same to the Governor. If such bodies are not in session, to the Governor.

FOURTH.—By all county and precinct officers, to the county board, and by members of the county board, to the county auditor.

FIFTH.—By all township officers, to the township clerk; and by the township clerk to the town board.

SIXTH.—By all officers holding appointment, to the offi-

cer or body by whom they were appointed. Such resignation shall not take effect until accepted by the board or officer to whom the same is made.

SEC. 171. Vacancies shall be filled in the following manner:

In the office of the reporter of the supreme court, by the supreme court. In all other State and judicial district offices, and in the membership of any board or commission created by the State, where no other method is specially provided, by the Governor. In county and precinct offices, by the county board; and in the membership of such board, by the Governor. In township offices, by the town board; but where the offices of the town board are all vacant, the clerk shall appoint; and if there be no town clerk, the county auditor shall appoint. In city and village offices, by the mayor and council or board of trustees.

SEC. 172. Every officer elected or appointed for a fixed term shall hold office until his successor is elected or appointed and qualified, unless the statutes under which he is elected or appointed expressly declares the contrary. This section shall not be construed in any way to prevent the removal or suspension of such officer, during or after his term in cases provided by law.

SEC. 173. Appointments under the provisions of this chapter shall be in writing, and continue until the next election, at which the vacancy shall be filled and until a successor is elected and qualified, and be filed with the Secretary of State, or proper township clerk, or proper county auditor, respectively.

SEC. 174. When a vacancy occurs in a public office, possession shall be taken of the office room, and of the books, papers, and all things pertaining to the office, to be held until the election or appointment and qualification of a successor, as follows:

Of the office of county clerk, by his deputy, if there be one; if not, by the county commissioners; and in case of any delay in the election or appointment of a successor to the county clerk, his deputy shall continue to discharge the duties of the office, being responsible for the conduct and management thereof upon his official bond. Of the office of county treasurer, by the sheriff. Of any of the State officers by the Governor, or in his absence or inability at the time of the occurrence as follows: Of the Secretary of State, by the Treasurer; of the Auditor of

Public Accounts, Commissioner of Public Lands and Buildings, and Superintendent of Public Instruction, by the Secretary of State; of the Treasurer, by the Secretary of State and Auditor of Public Accounts, who shall make an inventory of the money and warrants therein, sign the same and transmit it to the Governor, if he be in the State; and the Secretary of State shall take the keys of the safes and desks, after depositing the books, papers, money and warrants therein, and the Auditor shall take the key of the office room.

SEC. 175. Vacancies occurring in any State, judicial district, county, precinct, township or any public elective office, thirty days prior to any general election shall be filled thereat. Vacancies occurring in the office of probate judge or justice of the peace, shall be filled by appointment by the county commissioners.

SEC. 176. When a vacancy occurs in the office of representative in Congress, or members of the legislature, and the body in which such vacancy exists will convene prior to the next general election, the Governor shall order a special election to fill such vacancy at the earliest practicable time, and ten days' notice of such election shall be given.

SEC. 177. The provisions relating to general elections shall govern special elections, except where otherwise provided for.

SEC. 178. In all cases where special elections are to be held to fill vacancies in offices mentioned in the preceding subdivision, the board of canvassers shall meet at twelve [o'clock] m. on the third day after such election, to canvass the votes cast at such election, and the county auditor, within four days after any special election for a member of the legislature, or representative in Congress, shall transmit to the Secretary of State an abstract of the votes cast at said election, if there be more than one county in the district.

SEC. 179. Within ten days after said election in the case last mentioned, the board of State canvassers shall meet and canvass the votes cast to fill such vacancy, and if the returns have not been received from all the counties composing said district, they may adjourn to such day as they deem necessary, not exceeding five, for the purpose of receiving said returns.

SEC. 180. It shall be the duty of the Secretary of State to cause to be published in pamphlet form and distributed

through the county clerks of the respective counties, a sufficient number of copies of this law, and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of elections.

SEC. 181. All acts and parts of acts enacted by any Territorial legislature relating to election be and the same are hereby repealed: *Provided*, That nothing in this act contained shall be construed as repealing any of the provisions contained in the penal code.

Approved February 25, 1891.

ALIENS, CORPORATIONS AND ASSOCIATIONS.

AN ACT

RESTRICTING ALIENS, CORPORATIONS AND ASSOCIATIONS IN THEIR RIGHT TO ACQUIRE AND HOLD REAL ESTATE.

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

SECTION 1. No person other than a citizen of the United States, or who has declared his intention to become such, nor any association or corporation, except railway corporations, whose members are not exclusively citizens of the United States, or persons who have declared their intention to become such, shall hereafter acquire any land, or title thereto, or interest therein, other than mineral lands, or such as may be necessary for the actual working of mines and the reduction of the products thereof: *Provided*, That no person not eligible to become a citizen of the United States shall acquire title to any land or real property within this State, except as hereinafter provided: *Provided, further*, This act shall not prevent the holders (whether aliens or non-residents, corporations or associations) of liens upon real estate, or any interest therein, heretofore or hereafter acquired from holding or taking a valid title to the real estate in the enforcement of such lien; nor shall it prevent any such alien, association or corporation from enforcing any lien or judgment for any debt or liability now existing, or which may be hereafter created, nor from becoming a purchaser at any sale made for the purpose of collecting or enforcing the collection of such debt or judgment; nor from preventing widows or heirs who are aliens, or who have not declared their intention to become

citizens, from holding lands by inheritance; but all lands acquired as aforesaid shall be sold within five years after the title thereto shall be perfected in such alien, association or corporation, and in default of such sale, within such time, such real estate shall revert and escheat to the State of Idaho. The provisions of this act shall not be construed in any way to prevent or interfere with the ownership of mining land, or land necessary for the working of mines or the reduction of the products thereof.

SEC. 2. An emergency exists, therefore this act shall take effect and be in force immediately after its passage.

Approved February 26, 1891.

STATE BOARD OF LAND COMMISSIONERS.

AN ACT

DEFINING THE DUTIES OF THE STATE BOARD OF LAND COMMISSIONERS, TO PROVIDE FOR THE SELECTION, LOCATION, PROTECTION, SALE, RENTAL, AND GENERAL MANAGEMENT OF THE PUBLIC LANDS OF THE STATE, AND FOR THE INVESTMENT OF FUNDS ARISING FROM THE SALE AND LEASING OF SUCH LANDS.

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

SECTION 1. The board of land commissioners provided for in section seven, of article nine, of the Constitution, consisting of the Governor, Superintendent of Public Instruction, Secretary of State and Attorney-General, shall cause all of the public lands now owned by, or the title to which may be hereafter vested in the State, to be selected and registered, and thereafter to be sold or leased, and the funds arising from the sale or leasing thereof, (except university lands), shall be invested in the manner provided by this act.

SEC. 2. The board shall forthwith appoint a suitable person or persons to perfect the selection and location of all lands granted, or to be granted, to the State by the United States government; also to select lands in lieu of all lands heretofore, or which may be, granted, and which may have been disposed of by the general government, or occupied by bona fide settlers. Said board may also cancel, or otherwise release, the claims of the State to all lands heretofore or hereafter to be selected, which have been or

may be, rejected by the Secretary of the Interior. The persons appointed as aforesaid shall each receive a compensation of six dollars per day for all the time necessarily employed in their duties, and such actual traveling expenses as may be allowed by the board.

SEC. 3. The board shall cause suitable abstracts to be made of all the lands owned by the State, and entered in suitable and well bound books. Said abstract shall show, in proper columns and pages, the county in which each tract is situated; the section, part of section, township and range; whether timber or otherwise; mineral or non-mineral, in whole or in part; improved or unimproved, and the value of improvements, (if any); the value per acre; also the date of sale, name of purchaser, price per acre, amount paid in cash, amount unpaid, amount of annual interest, names of sureties on notes; date of lease, amount of rental, date of patent and when recorded; and such other information as may be necessary to show a full and complete abstract of the condition of each tract of land from the time title was acquired by the State until final payment by the purchaser and the issue of a deed for the land.

SEC. 4. For the purpose of making the abstracts provided for in the preceding section, and keeping the records provided for in this act, the secretary of the board, with the approval of the board, shall have power to employ necessary clerical assistance, whose compensation shall be fixed by the board.

SEC. 5. When the abstracts provided for in section three are made, the board shall cause a list of the lands described in such abstracts to be forwarded to the chairman of the boards of county commissioners wherein they are situated; and the said lands shall be appraised by said county boards, who shall view each parcel and make return under oath to the state board, the correct and true value of each parcel and of the timber thereon, if any, stating also its character, in whole or in part, whether timber or otherwise, mineral or non-mineral, improved or unimproved, occupied or unoccupied, and the value of the improvements thereon, if any.

SEC. 6. The board of land commissioners may, when they deem it for the best interest of the State, and upon written information, that any such lands or timber are appraised too low, signed by five or more reputable citizens of the State, shall cause any unsold lands to be reappraised.

ed, and the reappraised value thereof entered upon the abstracts hereinbefore provided for.

SEC. 7. In all counties where the public lands, or any portion thereof, have been appraised, the board shall, in person or by agent, attend at such times as the board shall direct, and offer at public auction all or any of the unsold lands, except such as have been leased to the highest bidder. Notice of such sale, and the time when, and place where, the same shall be held, shall be given by publication in some newspaper published in, or of general circulation in, said county: *Provided*, That no land shall be sold for less than the appraised value thereof, nor for less than ten dollars per acre, nor shall more than one hundred and sixty acres, nor less than a legal subdivision thereof, be sold to any one individual, company or corporation: *Provided, further*, That not to exceed twenty-five sections of school lands shall be sold in any one year.

SEC. 8. The said board shall, on a day to be fixed, between the first day of June and the first day of October of each year, at the county seat of the county wherein the timber is located, offer at public auction not to exceed ten per cent. in any one year, the timber on the unsold and unleased lands of the State. All such timber, before any part thereof shall be sold, shall be appraised as provided in this act; and no timber shall be sold for less than its appraised value. Notice of such sale, and the time and place thereof, shall be had by giving public notice by publication in some newspaper of the county, wherein the timber is located, in such manner as in the judgment of the board shall be conducive to the best interests of the State. The board shall sell such timber as may be offered by them to the highest and best bidder, if such bid be equal to or in excess of the appraisalment thereof. The board shall also have authority to sell at private sale, all timber which has been offered at public sale and remaining unsold for want of bidders, at not less than the appraised valuation: *Provided*, That the timber on not more than three hundred and twenty acres, nor less than a legal subdivision thereof, shall be sold to any one company, individual or corporation, and the right of ownership in any timber on lands of the State by virtue of purchase shall cease five years after the purchase thereof.

SEC. 9. Payments for lands and timber sold under the provisions of this act, shall be made as follows:

For timber lands, valuable chiefly for timber, cash in hand; other timber lands, at least one-half of the purchase price cash in hand, or such other sum, not less than one-half as the purchaser may desire. All other lands at least one-tenth cash in hand, or such other sum, not less than one-tenth, as the purchaser may desire. For timber sold, payment shall be cash in hand. Notes shall be given by the purchaser for the unpaid principal of all lands sold on time, and shall be due in ten years from date of sale, unless at the option of the State the same shall sooner fall due by reason of the failure of the purchaser to perform the covenants of his contract. The rate of interest on all unpaid principal shall be six per centum per annum, and shall become due and payable as follows: On the day of sale the interest on the unpaid principal shall be computed and paid up to the first day of January next ensuing, and thereafter it shall become due and payable in advance on the first day of January of each year; but nothing in this act shall be construed to prevent the purchaser from making full payment of principal and interest at any time.

SEC. 10. Payments made at such sales shall be made to the county treasurer, who shall deliver to the purchaser making such payment a receipt therefor; and any person making full payment shall be entitled to receive a deed from the State.

SEC. 11. When the public lands, or a portion thereof, in any county shall have been appraised as hereinbefore provided, it shall be the duty of the State board to prepare a list of said lands in that county and transcribe them in a well bound book, which list shall show essentially the same statements as are shown by the original list kept in the office of the State board, with the appraised value entered, which book shall be forwarded to the county treasurer and kept as a record of his office, and in which book shall be kept a record of all sales and leases thereafter issued or made in that county; and said treasurer shall use due diligence to collect all moneys by his book or the records of the State board found to be due. When payments are made he shall deliver a receipt therefor to the person making the same, a duplicate of which he shall file in the office of the county recorder, to be by him transmitted to the State board, and when by said board found correct and entered of record, shall be filed with the State Auditor; and the original receipts shall be countersigned

by said clerk and returned to the party making such payment; and no receipt shall be held valid unless countersigned by said recorder.

SEC. 12. Any person purchasing lands upon which improvements have been made by any other person, the purchaser shall pay full price of said lands and improvements to the county treasurer, and the treasurer shall pay the appraised value of the improvements in cash to the person owning the same; and any person having made improvements on any land sold to another may, at any time before receiving the appraised value thereof from the county treasurer, and within six months from the date of sale, remove such improvements from said land, and upon such removal the said treasurer shall return to the purchaser the appraised value of his improvements.

SEC. 13. Upon any sale of lands under the provisions of this act upon which full payment has not been made as herein provided, the board shall issue a certificate of purchase, showing the land purchased, the amount paid, the amount due, and the time when the principal and interest are due, and upon the payment of such amount according to law, the purchaser or his assigns shall be entitled to a deed of said land. The board shall cause to be furnished the necessary blanks and reasonable rules and regulations to carry into effect the provisions of this act.

SEC. 14. Whenever payments of interests are made to the county treasurer, as herein provided, he shall indorse the amount paid upon such certificate of purchase.

SEC. 15. When the board becomes satisfied that full payment has been made upon any tract of land hereafter sold, the Governor shall, under the great seal of the State, issue a deed therefor to the purchaser, or his assignee, and all deeds so issued shall be attested by the secretary of the board, and a record thereof be kept in their office.

SEC. 16. Any person purchasing land under the provisions of this act may, at any time, pay any portion of the principal thereon to the county treasurer of the county in which the land is situated, who shall give the same receipt as he is required to give when payment of interest is made, and the county recorder shall transmit one of said receipts to the board, who shall credit the amount of principal so paid upon the account of said sale contract, and file the said receipts with the State Auditor, as in other cases.

SEC. 17. Immediately after the close of the sale pro-

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vided for in section eight, all unsold lands shall be subject to lease, at a rental of ten per cent. per annum, on the appraised value. Applications for the lease of any such lands shall be made to the county treasurer at the county seat, and shall contain an affidavit that the applicant is not the owner of a lease of more than one hundred and sixty acres of public lands, including the amount called for, and desires to lease for his own use and benefit, and such application shall be accompanied by the amount due as rental to the first day of July or January, as the case may be: *Provided*, That if two or more persons desire to lease the same land, the member of the board or agent conducting the sale shall proceed to auction off and lease the same to that person who, in addition to the ten per cent. rental, will pay the highest rate per cent. on the appraised value of said lands for said lease. If improvements are shown by the appraisal to be located upon said land, the person, other than the owner of them, who is the highest bidder shall deposit with the county treasurer the appraised value of said improvements in addition to said premium and first payment of rental; the value of said improvements to be paid to the owner of them, or said owner may remove said improvements within three months. Upon the payment to the treasurer of the rental and premium, if any, he shall issue his receipt, in duplicate, specifying on what account the money is paid, and the application for lease and duplicate receipt for money paid shall be transmitted by the treasurer to the board, who shall, if the foregoing proceedings appear to be regular, issue and transmit to the county treasurer a contract of lease, to be by him transmitted to the lessee. Each lease shall contain a covenant that the lessee will promptly pay the rental semi-annually in advance; that no waste shall be committed on the land, and that the premises shall be surrendered at the expiration of his lease, which shall be five years from the first day of January, next ensuing, after the date of his lease, or sooner, with the consent of the board, and that upon a failure to pay the agreed rental for a period of six months from the time said payments are due, the lease will be forfeited and fully set aside as hereinafter provided, and no assignment of such lease contract shall be valid unless the same be entered of record in the office of the board. The board shall have a reviewing power over the acts of appraising under this act.

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SEC. 18. Any lessee of any public land who has lived upon, and fenced and cultivated, the same for the period of three years, may apply in writing to the chairman of the county board to have not to exceed one hundred and sixty acres of the land embraced in his lease appraised for the purpose of sale. And it shall be the duty of said county board to view the land so desired to be purchased by such lessee and return a true and correct value of said land under oath. After the foregoing proceedings have been had the applicant to purchase may make the same payments as if the lands were sold at public auction, as hereinbefore provided, and the same proceedings shall be had as in case of said public sale. The applicant to purchase shall pay the expenses of appraisal.

SEC. 19. If any lessee of public lands shall be in default of the semi-annual rental due the State for a period of six months, or any purchaser of public lands be in default of the annual interest due the State for one year, the board may cause notice to be given to such delinquent lessee or purchaser, that, if such delinquency is not paid within six months from the date of serving said notice, his lease or sale will be declared forfeited by the board and the lands therein described shall revert to the State as though such sale or lease had never been made, and the order making such forfeiture shall be spread upon the records of the board. In case the owner of such contract of sale or lease be a non-resident of the State, or his address be unknown, the notice herein contemplated shall be published three weeks in some newspaper published or of general circulation in the county where the land is situated. The owner of any contract of lease or sale so forfeited may redeem the land so forfeited by paying all the delinquencies and costs at any time before such land is again sold or leased.

SEC. 20. All moneys received as advance or full payment by the purchaser of land sold under the provisions of this act shall be paid by the officer receiving said money to the Treasurer of the State, specifying for what kind of land the money was received; and such money shall be held as the principal of the fund on which account it was received.

SEC. 21. The appraisers of all land under this act shall be allowed the sum of five dollars per day and ten cents per mile for each mile necessarily traveled. The publisher of any advertisement shall be allowed the fees fixed by law

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for publishing legal notices. The members of the State board, or their agent, shall be reimbursed their actual and necessary traveling expenses in making sale of lands. County treasurers shall be allowed, as compensation for the collection of all funds herein provided for, one per cent. of all such funds so collected.

SEC. 22. The State board of land commissioners, under the provisions of this act, shall meet on the second Wednesday of each month. The Governor shall be chairman and the Attorney-General secretary. They shall keep a record of all proceedings and orders made by them. No order shall be made except upon the concurrence of at least three members of the board.

SEC. 23. The said board shall, at their regular meeting, make the necessary orders for the investment or disposal of the principal of the funds derived from the sale of public lands (except university lands) then in the treasury.

The proceeds arising from the sale and rental of lands, other than educational lands donated to the State, may be invested for and on account of the specific purpose for which donated, and shall be invested in State, county or United States bonds, or in first mortgage on improved farm lands within the State; but no loan shall be made of any amount of money exceeding one-third of the market value of the land at the time of loan, exclusive of improvements.

SEC. 24. Any portion of the public lands of this State adjoining the site of any city or town may be subdivided into lots and sold as herein provided, the board being satisfied that by a division of any such tract into lots the sale of the same can be made for a greater amount than if sold in tracts as hereinbefore provided. The board shall have the authority to employ the necessary surveyors and cause such tracts to be subdivided into lots and tracts of such size as they may determine, and a plat of the same shall be made and filed for record with the county recorder. Tracts of land so divided shall not be leased, but each lot situated therein shall be sold at public auction at such time as the board may direct. The appraisal and sale to be in other respects as other lands are sold. The expense attending such sale shall be paid as other expenses of sale of public lands as hereinbefore provided.

SEC. 25. The State Auditor shall charge each of the county treasurers in the State the amount of money received

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as principal and interest separately from the sale or lease of lands in their respective counties, as shown by the receipts forwarded by the clerks of the several counties, and upon payment of the same to the State Treasurer, and the presentation of the Treasurer's receipt, shall credit the several treasurers with the amount of the same.

SEC. 26. Lands sold under the provisions of this act shall not be taxed until the right to a deed shall have become absolute, except for the value of the interest of such purchaser, which interest shall be determined by the amount paid and the amount invested in improvements on such lands.

SEC. 27. Any school district in which there may be any public land belonging to the State subject to disposition under this act is hereby empowered to purchase from the State any portion of such land, not exceeding forty acres, for school purposes, at not less than ten dollars per acre, nor less than the appraised value.

SEC. 28. The board shall have power to make all needful rules and regulations not inconsistent with law for the purpose of carrying out the provisions of this act.

Approved February 26, 1891.

IDAHO COUNTY—BOUNDARY, SURVEY.

AN ACT

TO DEFINE THE BOUNDARY LINE OF IDAHO COUNTY, AND PROVIDING FOR A SURVEY OF A PORTION OF THE SAME.

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

SECTION 1. The boundaries of the county of Idaho shall hereafter be as follows:

Commencing at the junction of Salmon river with Snake river; thence up the middle of the channel of Salmon river to the mouth of Deep creek; thence up the middle of the channel of Deep creek to the mouth of the Right Fork of Deep creek; thence up the middle of the channel of said Right Fork of Deep creek to the point where the line between ranges one (1) and two (2) west, of Boise meridian, crosses Deep creek; thence due north along said line to the point where said line crosses Willow creek; thence down the middle of the channel of Willow creek to its junction with Lawyers' canyon; thence down the middle of the channel of Lawyers' canyon to its junction with the Clearwater river; thence down the middle of the channel of Clearwater river to the mouth of Lolo creek; thence up the middle

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of the channel of Lolo creek to the head of Lolo creek, and thence in a direct line to the Lolo pass at the summit of the Bitter Root mountains; thence southeasterly and southerly following the present defined boundary line between the State of Idaho and Montana to the northwest corner of Lemhi county; thence south to the present line of Custer county; thence southwesterly along the present line between Idaho and Custer counties to the present line of Boise county; thence along the present line between Idaho and Boise counties to the east line of Washington county; thence along said line between Idaho and Washington counties to the head of the falls at the lower end of Round valley; thence due west to Snake river; thence following the middle of the channel of Snake river to the place of beginning.

SEC. 2. That portion of the boundary line defined in section 1 of this act between the head of Lolo creek and the Lolo pass of the Bitter Root mountains shall be surveyed and definitely located and marked by the surveyors of the counties of Idaho and Shoshone, acting jointly, under the direction of the respective boards of county commissioners, between the first day of August and the first day of October, 1891.

SEC. 3. The expenses incurred in such survey and determination shall be borne equally by the said counties of Shoshone and Idaho.

SEC. 4. Should either Idaho or Shoshone county fail, neglect or refuse to assist in making the survey provided for in section 2 of this act, then the other county is hereby empowered to make such survey independently; and the county making such survey independently shall be entitled to recover one-half the amount of expenses incurred in such independent survey from the county so failing, neglecting or refusing, in any court of competent jurisdiction.

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

Approved March 2, 1891.

ALIENS—MINING PROPERTY.

AN ACT

TO AUTHORIZE ALIENS TO TAKE, HOLD AND DISPOSE OF MINING PROPERTY.

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

SECTION 1. That any person, whether citizen or alien,

(except as hereinafter provided) natural or artificial, may take, hold and dispose of mining claims and mining property, real or personal, tunnel rights, mill sites, quartz mills and reduction works used or necessary or proper for the reduction of ores, and water rights used for mining or milling purposes, and any other lands or property necessary for the working of mines or the reduction of the products thereof: *Provided*, That Chinese, or persons of Mongolian descent not born in the United States, are not permitted to acquire title to land or any real property under the provisions of this act.

SEC. 2. An emergency exists, and this act shall take effect from and after its passage.

Approved March 2, 1891.

JUDGMENT LIENS IN FEDERAL COURTS.

AN ACT

TO PROVIDE FOR THE FILING OF TRANSCRIPTS OF JUDGMENT IN THE FEDERAL COURTS IN THE COUNTIES OF THIS STATE, AND REGULATING THE FEES THEREOF.

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

SECTION 1. Judgments in the district or circuit courts of the United States, if rendered in this State, may be made liens upon the real estate owned by the defendant, and also upon all real estate he may subsequently acquire, the same as if obtained in the district court of the State, by filing an attested copy of the judgments in the office of the county recorder of the county in which the real estate is situated; and no lien shall attach to the lands or other realty in any county of this State until the date of filing such transcript, except in the county wherein the judgment was rendered, in which case the lien shall attach from the date of such rendition.

SEC. 2. The recorder shall, on the filing of such transcript in his office, immediately proceed to record and index the same in a separate book for that purpose, in the same manner as a judgment rendered in the court of his own county, and he shall be allowed to charge and receive the same fees as provided by law for like service.

SEC. 3. When the amount due on any judgment is paid

off or satisfied in full, the plaintiff, or those legally acting for him, must acknowledge satisfaction thereof in the margin of the record of the judgment, or by the execution of an instrument in writing, referring to the judgment, and to have it duly acknowledged and filed in the office of the recorder of the county, in every county where the judgment is a lien. If he fails to do so within sixty days after having been requested in writing so to do, he shall forfeit to the defendant the sum of fifty dollars.

Approved March 2, 1891.

CREATING ALTA AND LINCOLN COUNTIES.

AN ACT

TO CREATE AND ORGANIZE THE COUNTIES OF ALTA AND LINCOLN, TO LOCATE THE COUNTY SEATS OF SAID COUNTIES, AND TO APPORTION THE DEBT OF LOGAN COUNTY.

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

SECTION 1. The County of Alta is hereby created, with the following boundaries, to-wit:

Beginning at a point on the southerly line of Custer County where the said line is intersected by the line between ranges eleven and twelve, east of the Boise meridian (said line being extended northerly to said point); thence in an easterly direction along the southerly line of Custer County to the intersection of said line with the line of the middle of the channel of Big Lost river; thence following the east line of Custer County up the middle of the channel of Big Lost river to its confluence with Pass creek; thence following the easterly line of Custer County up to the head of Pass creek, along the channel of said Pass creek; thence in an easterly direction along said easterly line of Custer County to the middle of the channel of Little Lost river; thence following the easterly line of Custer County in a northwesterly direction up the middle of the channel of Little Lost river to the intersection of said easterly line of Custer County with the southerly line of Lemhi County; thence due east along said southerly line of Lemhi County to the intersection with the westerly line of Bingham County, as defined by an act of the legislative assembly of the Territory of Idaho entitled, "An act creat-

ing and organizing the Counties of Elmore and Logan, and defining the boundaries of Bingham and Alturas Counties, approved February 7, 1889," being upon the 113th meridian west of Greenwich; thence due south along the west line of Bingham County to where said 113th meridian intersects the first standard parallel south; thence due east along the first standard parallel south to the point where it intersects the middle of the channel of Snake river; thence down along the middle of the channel of Snake river to a point where the line between townships twenty-five and twenty-six, east of Boise meridian intersects the said channel; thence north along the said township line to a point where it will intersect the township line between townships two and three, south; thence west along the said township line to the township line between ranges eleven and twelve, east of Boise meridian; thence north along said township line as far as it has been extended; thence due north to the place of beginning.

SEC. 2. The County of Lincoln is hereby created, with the following boundaries, to-wit:

Commencing at the northeast corner of township three, south of range eleven, east of the Boise meridian; thence south, following the township lines between ranges eleven and twelve, east of the Boise meridian, to a point where said line intersects the middle of the channel of Snake river; thence easterly following the middle of the channel of Snake river to a point where the township lines between ranges twenty-five and twenty-six intersects said channel; thence north along said township line to a point where said line intersects the township line between townships two and three south; thence west along the said line to the place of beginning.

SEC. 3. The county seat of Alta County is hereby established at the town of Hailey.

SEC. 4. The county seat of Lincoln County is hereby established at the town of Shoshone.

SEC. 5. The Governor shall, within ten days after this act shall take effect, appoint and commission suitable persons, possessing the qualifications of electors, to fill the various county offices of said Counties of Alta and Lincoln, who shall qualify as provided by law, and shall hold their respective offices until their successors shall have been duly elected and qualified according to law.

SEC. 6. All the county records, books, money, office fur-

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niture and fixtures, and other personal property belonging to Logan County, shall become the property of Lincoln County; and all the real property belonging to Logan County which is situated within the boundaries of Lincoln County shall become the property of Lincoln County; and within thirty days after this act shall take effect the county commissioners of said Lincoln County, shall cause the said records, books, funds and all personal property to be removed to the town of Shoshone; and said county commissioners, shall, immediately after assuming the duties of their office, provide suitable and convenient offices at said town of Shoshone for the use of the respective officers of said Lincoln County.

SEC. 7. All public buildings, records, books, furniture, money, real estate and personal property heretofore belonging to Alturas County shall become the property of Alta County.

SEC. 8. Within ninety days after this act shall take effect the recorder of Lincoln County must transcribe into suitable record books such portions of the record of what was Logan County as pertains to or affects the title to property within the boundaries of Alta County, and which were recorded in Logan County subsequent to the date of its organization, for which transcripts the recorder of Lincoln County shall be entitled to receive the sum of twenty cents per folio; and his claims for such transcripts must be audited and allowed by the county commissioner of Alta County, as other claims against the county are audited and allowed; and the necessary books for such transcripts must be furnished at the expense of Alta County; and said transcribed records must be duly certified by the recorder of said Lincoln County and shall be of the same force and effect as notice, and shall be received in all courts as evidence and with like effect as would the original records or certified copies thereof.

SEC. 9. All the indebtedness of Logan County shall be assumed and paid by Lincoln County, and all indebtedness of Alturas County shall be assumed and paid by Alta County.

SEC. 10. All the indebtedness of Logan County which has been incurred since the date of its organization, and which shall remain unpaid at the date of the passage of this act, must be apportioned between Alta County and Lincoln County in the same proportion that the taxable

property of Logan County, as shown by the assessment books of Logan County for the year 1890, acquired by Alta County and Lincoln County, bears to each other; and at their regular meeting in April, 1891, the boards of county commissioners of Alta County and Lincoln County shall appoint, each, a competent accountant, who shall meet at the town of Shoshone and proceed to audit and ascertain the amount of the indebtedness of Logan County to be assumed by each of the said Counties of Alta and Lincoln, and they shall apportion the money received by Lincoln County from Logan County in the same manner that they apportion the debt; and they shall prepare two certificates, one of which shall be delivered to the board of county commissioners of each county, showing the total indebtedness of Logan County at the time when this act took effect, its character, whether represented by outstanding warrants or otherwise, and the proportion to be paid by each county; and said accountants must be allowed a reasonable sum for their services, to be paid by the county appointing each respectively.

SEC. 11. Immediately after filing the certificates of the proportion of the indebtedness named in the preceding section, the auditor of Alta county, under the supervision and direction of the board of county commissioners of Alta county, shall draw his warrants in the sums not exceeding five hundred dollars each against the current expense fund of Alta County, and bearing the interest at the rate of seven per cent. per annum, in favor of Lincoln County to the full amount of the indebtedness apportioned to Alta County, less the proportion of cash on hand apportioned to Alta County and received from Logan County by Lincoln County, and which was available for the payment of the outstanding warrants of Logan County; and the treasurer of Alta County must register said warrants as provided by law and deliver the same to the treasurer of Lincoln county: *Provided*, That the board of county commissioners of Alta County may order the auditor of said county to credit the amount found due to Lincoln County from Alta County, as provided in section 10 of this act, upon any indebtedness that may be found due from Lincoln County to Alta County upon an adjustment between said counties of the debt of Alturas County assumed by Alta County, in which case no warrants shall issue.

SEC. 12. All actions, prosecutions and legal proceed-

ings of all kinds whatsoever now pending in either Alturas or Logan County shall be continued, maintained and prosecuted in the new Counties of Alta and Lincoln, respectively; and all rights of action now existing in favor of or against said Alturas County may be maintained in favor of or against Alta County, and all rights of action now existing in favor of or against said Logan County may be maintained in favor of or against Lincoln County.

SEC. 13. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 14. Whereas an emergency exists, this act shall take effect and be in force from and after its passage.

This bill was received February 25, 1891, at 3 o'clock p. m.

NORMAN B. WILLEY, *Governor.*

This bill having remained with the Governor five (5) days, (Sundays excepted), and the legislature being in session, it has become a law, this 3d day of March, 1891.



Secretary of State.

CORPORATIONS—RAILWAYS.

AN ACT

AUTHORIZING RAILROAD CORPORATIONS TO CONSTRUCT BRANCHES AND EXTENSIONS FROM THEIR RAILROADS AND FROM THE RAILROADS OF OTHER RAILROAD CORPORATIONS CONNECTING WITH OR USED IN CONNECTION WITH THEIR ROADS, AND TO CONSOLIDATE WITH OTHER RAILROAD CORPORATIONS AND TO LEASE, PURCHASE AND OPERATE THE RAILROADS OF OTHER RAILROAD CORPORATIONS.

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

SECTION 1. Any railroad corporation chartered by or organized under the laws of this State, or of any State or Territory, or under the laws of the United States and authorized to do business in this State, may extend its

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railroad from any point named in its charter or articles of incorporation, or may build branch roads, either from any point on its line of road or from any point on the line of any other railroad connecting, or to be connected, with its road, the use of which other road between such points and the connection with its own road such corporation shall have secured by lease or agreement for a term of not less than ten years from its date. Before making any such extension, or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which said railroad is to be constructed, and the estimated length of such railroad, and the name of each county in this State through or into which it is constructed or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the Secretary of State, who shall indorse thereon the date of filing thereof and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch, and receive aid thereto, which it would have had if it had been authorized in its charter or articles of incorporation.

SEC. 2. Any such railroad corporation may consolidate its stock, franchises and property with any other railroad corporation, whether within or without the State, when such other railroad corporation does not own any competing line of railroad, upon such terms as may be agreed upon, and become one corporation, by any name selected, which, within this State, shall possess all the powers, franchises and immunities, including the right of further consolidation with other corporations under this section, and be subject to all the liabilities and restrictions such as such corporations peculiarly possess, or were subject to at the time of consolidation by the laws then in force applicable to them or either of them. Articles stating the terms of consolidation shall be approved by each corporation by a vote of the stockholders owning a majority of the stock, in person or by proxy, at the regular annual meeting thereof, or a special meeting called for that purpose in the manner provided by the by-laws of the respective consolidating corporations, or by the consent in writing of such stockholders annexed to such articles; and a copy

thereof, with a copy of the records of such approval or such consent, and accompanied by lists of their stockholders and the numbers of shares held by each, duly certified by the respective presidents and secretaries, with the respective corporate seals of such corporations affixed, shall be filed for record in the office of [the] Secretary of State before any such consolidation shall have any validity or effect.

Any railroad corporation whose line is wholly or in part within this State, whether chartered by or organized under the laws of this State, or of any other State or Territory, or of the United States, may lease or purchase and operate the whole or any part of the railroad of any other railroad corporation, together with the franchises, powers, immunities, and all other property or appurtenances appertaining thereto. And all such purchases or leases heretofore made or entered into are for all intents and purposes hereby ratified and confirmed: *Provided*, That in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof, nor shall any bonds or other evidences of debt be issued as a consideration for or in connection with such consolidation.

SEC. 3. Any railroad corporation chartered by or organized under the laws of the United States, or of any State or Territory, whose constructed railroad shall reach or intersect the boundary line of this State at any point, may extend its railroad into the State from any such point or points to any place or places within this State, and may build branches from any point on such extension. Before making such extension, or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which such extension or branch is to be constructed and the estimated length of such extension or branch, and the name of each county in this State through or into which it is constructed or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the Secretary of State, who shall indorse thereon the date of filing thereof, and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension, or build such branch, and receive such aid

thereto as it would have had had it been authorized so to do by articles of incorporation duly filed in accordance with the laws of this State.

It shall be the duty of railroad companies, when intersecting or crossing any other railroads in this State, to so arrange their side tracks or switches that cars or freight may be readily transferred from one track to the other at the option of the shipper.

SEC. 4. This act shall not apply to any corporation before such corporation shall have filed an acceptance of the provisions of the State Constitution, as provided in section 7, of article XI, of the Constitution.

SEC. 5. Nothing in this act contained shall ever be so construed as to exempt any railway property from taxation.

SEC. 6. An emergency existing therefor, this act shall be in force from and after its passage and approval by the Governor.

Approved March 4, 1891.

TOWNS AND VILLAGES.

AN ACT

TO PROVIDE FOR THE MANNER IN WHICH THE NAMES OF TOWNS, VILLAGES AND CITIES MAY BE CHANGED.

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

SECTION 1. That whenever a majority of the legal voters of any incorporated town, village or city shall present a petition to the board of county commissioners of the county in which such town, village or city is situated, praying that a special election may be called in said town, village or city for the purpose of voting on the question of changing the name of such town, village or city, and if such board, or a majority of the members thereof, shall be satisfied, by affidavit or other proof, that a majority of the legal voters of such town, village or city have signed such petition, it shall be the duty of such board to forthwith give notice of the filing of such petition, by publishing such notice in a newspaper published in said town, village or city, or, if there be no newspaper published in said town, village or city, then by publishing such notice in some other

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paper published in the county, or by posting said notice in three of the most public places in said town, village or city. Said notice shall contain the date when the same will be heard, which said date shall be not less than thirty days after the first meeting of the board of county commissioners after the filing of said notice, and said publication shall be made, or said notices posted, for not less than twenty days before such petition is acted upon by said board of county commissioners. At the hearing of said petition, if it shall satisfactorily appear to said board of county commissioners that said petition does contain the names, as signers thereto, of a majority of the legal voters of said town, village or city, and that the notice as herein required has been given, then it shall be the duty of said board of county commissioners to forthwith call a special election in said town, village or city for the purpose of submitting to the qualified electors thereof the question of changing the name of such town, village or city. Notice of the time and place of holding said election shall be given in the same manner and said election shall be conducted in all respects the same, as is provided by law relating to general elections for town and village purposes. The electors at said election shall designate, on their ballots, what name they desire said town, village or city shall take, and the name receiving a two-thirds vote of all the votes cast at said election shall become and remain the name of such town, village or city.

SEC. 2. It shall be the duty of the election board conducting such election to certify to the board of county commissioners the tally sheets used at such election, showing the votes cast, and the number of votes cast for each name voted for at such election.

SEC. 3. In case no name has received two-thirds of all the votes cast at such election, then said board of county commissioners shall forthwith call another election in the same manner as the first, which said election shall be conducted in the same manner as the first, and the name receiving a majority of the votes cast at such second election, shall become and remain the name of such town, village or city.

SEC. 4. It shall be the duty of the board of county commissioners, upon receiving the tally sheets and returns of such election, as provided in sections one and three of this act, to enter upon their record an order changing the name

of such town, village or city to the name selected by the voters of such town, village or city at such special election held as herein provided, and to make and file with the board of trustees of such town, village or city, and also with the county recorder of the county, a certified copy of the order made by such board of county commissioners in changing the name of such town, village or city.

SEC. 5. The costs and expenses of holding the election or elections, as in this act provided, shall be paid by the town, village or city where such election is held.

SEC. 6. A change of name under the provisions of this act shall not in any manner affect or alter any right of action, legal process or property.

Approved March 4, 1891.

DOMESTIC ANIMALS.

AN ACT

TO REPEAL AN ACT OF THE FIFTEENTH SESSION OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT TO SUPPRESS AND PREVENT THE DISSEMINATION OF CONTAGIOUS OR INFECTIOUS DISEASES AMONG DOMESTIC ANIMALS, AND TO PROTECT STOCK OWNERS."

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

SECTION 1. That an act of the fifteenth session of the legislative assembly of the Territory of Idaho, entitled "An act to suppress and prevent the dissemination of contagious or infectious diseases among domestic animals, and to protect stock owners," be, and the same is hereby, repealed.

SEC. 2. An emergency existing therefor, this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 3, 1891.

SCHOOL DISTRICTS TO ISSUE BONDS.

AN ACT

TO AUTHORIZE INDEPENDENT SCHOOL DISTRICTS TO ISSUE BONDS, TO REDEEM, FUND OR REFUND THEIR INDEBTEDNESS, AND TO PROVIDE AND IMPROVE SCHOOL HOUSES AND GROUNDS AND FURNITURE AND FIXTURES.

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

That there be added to chapter eleven, of title three, of the political code, the following sections:

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Section 737. The board of trustees of any independent school district, organized under any general or special law, may issue negotiable coupon bonds of their district for the purpose of paying, redeeming or refunding the principal of any of the outstanding bonded indebtedness of their district, whenever the same can be done to the profit or advantage of their district and without the district incurring any additional indebtedness or liability exceeding in any year the income or revenue provided for such year. Said bonds must bear interest at not exceeding six per centum per annum, payable semi-annually, at the office of the treasurer of the district, or at such banking house in the city of New York as may be designated by the board of trustees; and the principal of said bonds, or any part thereof, may, at the option of the district, be paid at any time after ten years, and must be paid within twenty years, from the time they are issued, and in the order in which they are issued and numbered. Semi-annual interest coupons, covering the interest to grow due, must be attached to each bond; the bonds must be signed by the presiding officer of the board and attested by its secretary and the seal of the district, if it have a seal, and the coupons must be signed and the bonds registered by the treasurer of the board. No bond shall be sold at less than its par value, and the proceeds thereof must be devoted to the payment, redemption or refunding of the outstanding bonded indebtedness of the district.

Section 738. The board of trustees of any such independent district may, whenever two-thirds of the board so decide, submit to the qualified electors of the district, at an election to be held for that purpose, and to be called and conducted as other school elections in said district, the question whether the board shall be authorized to issue the negotiable coupon bonds of the district in an amount to be mentioned in the notice of election, for the purposes of providing and improving school houses and grounds and furniture, apparatus, and fixtures for said district, or for any or either of said purposes; and if at such election two-thirds of the qualified electors of said district voting at said election assent thereto, the board of trustees may issue such bonds of the district to the amount and for the purpose designated in said notice; which bonds shall be in all respects similar to, and shall be signed, negotiated, registered, bear interest, and be made payable as provided

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in the last preceding section; and no bond shall be sold for less than its par value, and the proceeds thereof must be devoted to the purposes mentioned in said notice.

Section 739. The board of trustees of any such district that has issued bonds under either of the last two preceding sections must annually levy upon all the taxable property of the district, in addition to other authorized taxes, a tax sufficient to pay the interest on all bonds so issued as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time the bonds are issued; which taxes shall be levied, assessed, collected and paid over as other taxes are levied, assessed, collected and paid over in the district, and shall be devoted to the payment of the principal and interest of said bonds only; and the accumulated sinking fund may be used for the redemption of said bonds at any time after ten years from the date of their issue.

Approved March 6, 1891.

SCHOOLS.

AN ACT

TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE SCHOOLS.

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

SECTION 1. The Superintendent of Public Instruction, the Secretary of State and Attorney-General shall constitute the State board of public instruction, of which the Superintendent shall be president. The board shall have power to appoint a secretary.

SEC. 2. The State board of public instruction shall meet at the capitol on the second Monday of December, in each year, and such other times as may by a majority of the board be deemed necessary, and shall have power to adopt any rules and regulations, not inconsistent with the law, for its own government and for the government of the public schools.

SEC. 3. The board is authorized and empowered to issue State diplomas to such professional teachers as may be found upon examination, or by diplomas from other States requiring similar qualifications, to possess the requisite scholarship and culture, and who also may exhibit satis-

factory evidence of an [un]exceptionable moral character, and of professional experience and ability. All such diplomas shall be countersigned by the State Superintendent of Public Instruction and supersede the necessity of any and all other examinations of persons holding the same, by county, city or local examiners; and such diplomas shall be valid in any county, city or district in the State during the life-time of the holder, unless revoked by the State board of public instruction.

SEC. 4. The diplomas issued by the State board of public instruction shall be of two grades. The first grade shall be evidence of the fitness of the holder thereof to teach in the high schools of the State; and the second grade shall be evidence of the fitness of the holder thereof to teach in any of the schools of the State of a lower grade than the high school.

SEC. 5. The State board of public instruction may at any time revoke a State diploma upon satisfactory evidence that the holder thereof has become unworthy of the same: *Provided*, That, before revoking any such diploma, the holder thereof shall have at least thirty days' notice to appear before the State board and refute any charges brought against him.

SEC. 6. Before entering upon the duties of his office the State Superintendent of Public Instruction shall take and subscribe the oath prescribed by the Constitution, and shall execute a bond in the penal sum of two thousand dollars, payable to the State of Idaho, with sureties to be approved by the Governor, conditioned upon the faithful performance of his official duties and the delivery to his successor of all books, papers, documents and other property belonging to the office. Said bond and oath shall be deposited with the Secretary of State.

SEC. 7. He shall have an office at the capitol, where shall be kept an official seal and all books and papers appertaining to the business of his office. He shall file all papers, reports, and public documents transmitted to him by the school officers of the several counties, each year separately, and hold the same in readiness to be exhibited to the Governor, or to any committee of either house of the legislature, or any citizen of the State.

SEC. 8. He shall have a general supervision of all the county superintendents and of the public schools of the State. He shall prepare, have printed, and furnish to all officers charged

with the administration of the laws relating to public schools and to teachers, such blank forms and books as may be necessary to the discharge of their duties. He shall have the laws relating to public schools printed in pamphlet form, and shall supply school officers, school libraries and State libraries with a copy each; said printing to be paid for on the warrant of the Auditor out of the State school fund, on bills approved by the State board of examiners.

SEC. 9. He shall, on or before the first day of December in every year preceding that in which shall be held a regular session of the legislature, report to the Governor the condition of the public schools, the amount of State school fund apportioned, and sources from which derived, with such suggestions and recommendations relating to the affairs of his office as he may think proper to communicate. It shall be his duty to visit annually such counties in the State as most need his personal attendance, and all counties, if practicable, for the purpose of inspecting the schools, awakening and guiding public sentiment in relation to the practical interests of education. And he shall open such correspondence as may enable him to obtain all necessary information relating to the system of public schools in other States; and he shall receive out of the State treasury, for actual necessary traveling expenses, and other expenses while traveling on the business of the department, not exceeding five hundred dollars per annum, for which he shall render an itemized bill to the State board of examiners; and all office, fuel, furniture, postage, books, stationery and other contingent expenses pertaining to his office, shall be furnished in the same manner as those of the other departments of the State government.

SEC. 10. Before entering upon the duties of his office the county superintendent of public instruction shall take and subscribe the oath prescribed by the Constitution, and execute a bond payable to the State of Idaho, with two or more sureties, to be approved by the board of county commissioners, in penalty of not less than one thousand dollars, to be increased at the discretion of said board, conditioned upon the faithful performance of his official duties, and the delivery of all moneys and property received by him as such superintendent to his successor in office, which bond shall be filed in the office of the county recorder.

SEC. 11. www.libtool.com.cn On the first Wednesday of August in each year, he shall meet all persons desirous of passing an examination as teachers, in some suitable room at the county seat, notice of which shall be given in some newspaper published in the county, or, in case no newspaper is published in the county, he shall give such notice as may by him be deemed necessary; at which time he shall examine all applicants in orthography, reading, writing, arithmetic, English grammar, geography, history of the United States, including the Constitution of the United States, physiology, laws of health, the nature of and effect upon the human system of alcoholic drinks and narcotics, theory and practice of teaching, and so much of the school law as relates to the duties and responsibilities of teachers. If the applicant is to teach in a school of high grade, the examination shall extend to such additional branches of study as are to be pursued in such school. If satisfied of the competency to teach, and of the good moral character of the applicant, he shall give such applicant a certificate, free of charge, as in this act provided. He must call to his aid, for the purpose of assisting in the examination, two competent teachers, (one in each commissioner's district), other than the district including the county seat, who may receive as compensation not more than three dollars per day each, to be paid out of the general school fund of their county, upon bills rendered to the board of county commissioners and certified by the county superintendent: *Provided*, That each assistant examiner shall hold a special written examination in the district in which he lives, at some appointed place, for the convenience of teachers in said district, on the first Wednesday of February, May and November, submitting the same questions of examination as used in other parts of the county, and forwarding the examination papers at once to the county superintendent to be graded as provided herein.

SEC. 12. The certificates issued by the county superintendent shall be of three grades, distinguished as first, second and third. The first grade certificate shall be valid for two years; the second grade for one year, and the third grade for six months. A county superintendent may renew a certificate of the first grade by indorsing such renewal thereon. He shall not grant a certificate of either of the above named grades without first examining the candidate in all the branches specified in section eleven of this act.

The superintendent may, upon satisfactory evidence of competency, issue a temporary certificate, which shall be valid only until the next regular examination, at which time the holder of such temporary certificate shall appear for examination as aforesaid. It shall not be lawful to renew a temporary certificate, nor to grant a second one to the same person. The superintendent shall keep a record in a suitable book of the persons so examined, containing the name, age, nativity, date of examination, and grade of certificate issued, and the standing of each applicant in each branch.

SEC. 13. On or before the fifteenth day of October in each year the county superintendent shall make a report to the State Superintendent for the school year which ended August thirty-first next preceding, which report shall contain an abstract of the reports made to him by the district secretaries or clerks, together with the financial affairs of his office, and of such other matters as the State Superintendent shall direct, or he himself may deem essential in exhibiting the true condition of the schools under his charge.

SEC. 14. It shall be the duty of the county superintendent to exercise a careful supervision over the schools of his county; to visit each school in his county at least once in each year; to see that all the provisions of this act are observed and followed by the teachers; to keep in a good and substantial bound book a record of his official acts, and of other matters required by law to be recorded; to obey the legal instructions of the State Superintendent, and to exhibit his books and report the financial condition of his office to the board of county commissioners on or before the second Monday of December of each year.

SEC. 15. The county superintendent shall appoint trustees for any district which fails to elect as provided in this act, and shall fill vacancies that may occur in the board of trustees by reason of death, removal from office or from the district, resignation or otherwise.

SEC. 16. It shall be the duty of the county superintendent to ascertain the boundaries of each school district in his county, and make and keep a record of the same in a suitable bound book, which record shall show definitely the boundaries of each district. In case the boundaries are found to be conflicting or incorrectly described, he shall harmonize the same and make a report of such action

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to the board of school trustees whose districts are affected thereby. District officers shall have access to such record for the purpose of examination, making copies, or for other legitimate purposes.

SEC. 17. If for any cause the county superintendent is unable to attend to the duties of his office, he may appoint a deputy, who shall take the usual oath or affirmation of office, and who may exercise all the functions of the county superintendent, but such deputy shall draw no salary from the public fund.

SEC. 18. The county superintendent of public instruction shall receive, as full compensation for all services rendered his county as such superintendent, a commission on the amount of all moneys apportioned by him to the various school districts of his county, to be paid out of the general fund of his county, as follows: On the first one thousand dollars, ten per centum; on all sums over one thousand dollars and not exceeding five thousand dollars, four per centum; on all sums over five thousand dollars, and not exceeding ten thousand dollars, three per centum; on all sums over ten thousand dollars, and not exceeding fifteen thousand dollars, two and one-half per centum; on all sums over fifteen thousand dollars, two per centum. The county commissioners shall provide him with all necessary blank books, stationery, postage, expressage and other expenses of his office, not otherwise provided for, which last expense shall be paid from the current expense fund of the county.

SEC. 19. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the State by the general government, known as school lands, and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant, and of all other grants of lands or money made to the State for general educational purposes, and all money accruing to the State from the estates of deceased persons.

SEC. 20. For the purpose of establishing and maintaining public schools in the several counties of the State, the board of county commissioners of each county shall, at the time of levying the taxes for State and county purposes, levy a tax of not less than five mills nor more than ten mills on each dollar of taxable property in their respective counties for school purposes. Said taxes must be

assessed and collected in each county as other taxes for State and county purposes. For the further support of the public schools there shall be set apart by the county treasurer of each county, and placed in the county school fund, all moneys arising from fines, forfeitures or breach of any of the public penal laws of this State.

SEC. 21. The income of the State school fund and taxes collected by the State for the support of public schools which shall be received up to the first day of January and the first day of July of each year, shall be distributed semi-annually during said months, respectively, in each year among the several counties in the State from which reports have been received by the Superintendent of Public Instruction, as provided in this act, in proportion to the number of children of school age, as shown by the last school census list of each county. And the Superintendent of Public Instruction shall certify such apportionment to the State Auditor, and upon such certificate the auditor shall draw his warrant in favor of the county treasurer of each county for the amount due said county. The Superintendent shall also certify to the treasurer and superintendent of each county the amount apportioned to each county.

SEC. 22. The county superintendent shall require of the county treasurer, quarterly, each year, a report of the amount of money on hand to the credit of the school fund of the county, not already apportioned, and the county treasurer shall furnish such report when so required. The county superintendent, upon receiving such report, shall proceed to apportion the public school moneys, both county and State, reported by the county treasurer to be in the county treasury, among the several school districts, in the following manner, to wit: One-half of the whole amount he shall divide equally among the several districts that have complied with the provisions of this act; the remaining one-half of said whole amount he shall apportion per capita among the several districts in proportion to the number of children in each district, as shown by the last report of the census marshal of each district, and credit each district with the amount to which such apportionment entitles it: *Provided*, That each district is entitled to one share in the apportionment of the first one-half, regardless of the number of children therein. Immediately after such apportionment he shall certify to the

county treasurer the amounts which are to be placed to the credit of each district, and notify the treasurer of each district of the amount placed to the credit of his district.

SEC. 23. It is hereby made the duty of the county treasurer in each county to keep a separate account with each school district in his county, to place to the credit of each the amount of money, as certified to by the county superintendent, as provided in this act, and to pay over the money on the legally drawn warrants or orders of the district officers entitled to draw the same: *Provided*, That if the county superintendent shall notify the county treasurer in writing that there has been a failure on the part of any board of trustees to comply with the law, and that said money should be withheld from said board of trustees, he shall retain the same until further notice from the county superintendent. All moneys that shall be finally forfeited by any district shall be put into the general school fund of the county and reapportioned as other moneys.

SEC. 24. It is the duty of the county superintendent to collect by process of law all penal fines not paid over by justices of the peace or other officers required by law to pay the same into the county treasury, and the same may be collected and recovered by an action at law, in which the State of Idaho, by the county superintendent, is plaintiff, and the officer neglecting or refusing to pay over the said moneys is defendant; to preside over teachers' institutes, if any is held in the county, and to make such rules and regulations for the government of teachers and pupils, not inconsistent with this act, as he may deem necessary. He must, with the concurrence of at least two of the board of county commissioners, adopt uniform text books for the use of the schools in his county, and enforce the same, and such books shall not be changed for a period of four years; he shall write the publishers of school books to submit their various publications for examination and comparison, and no bid must be considered unless accompanied by samples of all books offered for adoption, together with a written or printed guarantee signed by the publisher or his authorized agent, and approved by the county commissioners, that if any of their text books are adopted they will maintain the quality and excellence of the books offered for adoption, and that the price will not be increased during the time. The superintendent and

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commissioners are authorized to make such terms and conditions with publishers as they may deem best for the interests of the county.

When any new district is organized from any part of any other organized district or districts, as provided in this act, the county superintendent, after having ascertained the amount of moneys belonging to said old district or districts, and the amount of indebtedness and liabilities of said old district or districts, and deducting said indebtedness and liabilities, must apportion to said new district its due per capita proportion of money or indebtedness, as the case may be, from said districts from which it may be formed. Each school district must keep at least three months' school within each school year to entitle it to draw any of the public school money.

SEC. 25. It is the duty of the county auditor, upon presentation of any order from the clerk of the board of trustees of any school district in his county, said warrant being also signed by the chairman of said board of trustees, or, in his absence, by the other members of said board, to draw his warrant upon the school fund standing to the credit of said school district in favor of the person mentioned in said order as entitled to receive the same.

SEC. 26. It is the duty of each county treasurer to receive and hold as special deposit all moneys belonging to the public school fund of his county, in accordance with the provisions of this act, and to pay them over only on the warrant of the county auditor.

SEC. 27. For the purpose of organizing a new district, either from unorganized territory or from an old district, the parents or guardians of at least ten children who shall possess the right to attend school in such new district, must petition the county superintendent in writing; such petition shall specify the names and number of persons of school age residing in the proposed boundaries of such new district. If such new district is to be formed from one or more old districts, the county superintendent shall direct some one of the petitioners, who is a legal voter, to notify each elector residing within the district so to be formed, by personal service as far as practicable, and to post a notice in three public places in said proposed new district that such a petition has been made, and that a meeting will be held, naming the time and place of such meeting, to determine the same.

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SEC. 28. The qualified electors of such proposed new district, when assembled in accordance with the notice above required, shall organize by electing a chairman and a secretary. Every legally qualified elector, and none other, shall be entitled to vote at such meeting. After the organization of such meeting, as above mentioned, a vote shall be taken by ballot on the question whether or not the proposed district shall be organized. Those in favor of said organization shall vote "yes," and those opposed shall vote "no." If two-thirds of the legal voters so voting are found to be in favor of such organization, and not otherwise, the meeting shall proceed to elect, by ballot, a board of trustees of said district, who shall hold their office until the ensuing regular election, as provided in this act. The secretary of said meeting shall immediately transmit to the county superintendent a copy of the proceedings, upon the receipt of which, if the proceedings are found to be in accordance with law, he shall establish and number said district, and enter a record of the same and of the proceedings of the meeting, as provided in this act: *Provided*, If such organization of a new district work great hardship to any head of a family, a statement of the facts may be submitted to the superintendent, and two disinterested persons, one to be named by the superintendent and one by the person affected, and if, in their judgment, good cause be shown for the transfer, he may be transferred to another district: *Provided, further*, That no district shall be hereafter divided for the purpose of forming a new district unless it contain an area of more than nine square miles, nor shall a district be divided, if, by so doing, the remainder of the district shall be found to contain less than fifteen persons of school age: *Provided, also*, That no incorporated city or town shall hereafter be divided into two or more districts.

SEC. 29. A joint school district may be formed from territory belonging to two or more contiguous counties. For the purpose of organizing a joint district the same preliminary steps must be taken, and the same course be pursued, as is pursued in the organization of other districts, as provided in sections 27 and 28 of this act. Such district shall be designated as joint district number.....of the counties of.....and....., and be so numbered that it shall have the same number in all the counties from which it is formed. The petition required by section twenty-seven (27) shall be made to each county superin-

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tendent interested, who shall unite in forming such district: *Provided*, That the school census, the record of attendance at school, the assessing of property, the collection of taxes, and all acts which, from their nature, should be separately kept, shall be kept and done, and the report thereof made, as if each portion of said joint district were an entire district in the respective counties. The teacher of such joint district shall have a certificate from the superintendent of the county in which the school house is located. The school books adopted for use in the county wherein the school house is situated shall be used in the joint district.

SEC. 30. No new district, formed as provided in this act, shall be entitled to any portion of the public school money until a school has actually been commenced therein, and unless within six months from the establishment of such district a school be opened and maintained as required by law: *Provided*, For good cause shown, the county superintendent may extend the said six months to eight months. Whenever any district shall, for the period of one year, fail to maintain a school and to keep up its organization of officers, as required by law, the county superintendent may declare such district annulled, and its territory may be, by him, attached to other districts upon the petition of the heads of families within such territory. Upon the annulling of a school district, as above provided, the county superintendent shall take charge of the property of said district and dispose of the same as in his judgment shall be conducive to the best interests of the county and the inhabitants of said district.

SEC. 31. Each regularly organized school district in this State, or that may be organized as provided in this act, is hereby declared to be a body corporate, by the name and style of school district number . . . , in county of . . . , State of Idaho; and in that name may hold property, sue and be sued, and make contracts, the same as municipal corporations in this State.

SEC. 32. There shall be elected in each school district, and in the manner prescribed in this act, a board of trustees. All districts shall elect one chairman, one clerk and one treasurer. The chairman of the board so elected shall hold his office for three years; the clerk shall hold his office for two years and the treasurer for one year. Treasurers may be required to give a bond in the amount fixed

by the county superintendent, said bond to be approved by him.

SEC. 33. The regular election for electing members of the board of school trustees shall be held annually in each district on the first Monday in June, at which time it shall be lawful to transact any business pertaining to schools and school interests. The clerk of each board of trustees shall cause printed or written notices to be posted, specifying the time and place of holding such election, and the time during which the ballot box shall be kept open, not less, however, than three hours, and further specifying at what hour other business shall be transacted. Said notice shall be posted in three public places in the district, one of which shall be the school house, if there be one, at least ten days previous to such time of election. If the clerk fail to give such notice, then any two legal voters residing in the district may give such notice, over their own names, and such election may be held after the day fixed in this act for such election. All elections shall be by ballot; the polls shall be opened by one of the board of trustees, or by any qualified elector if no trustee be present at the time specified in the notice; if no time is specified in the notice, then the polls shall be opened at 1 o'clock p. m. and closed at 5 o'clock p. m. of the same day; said election shall be conducted as any other county elections, except that one judge and one clerk may constitute a board of election, and any trustee may administer the oath to said judge and clerk; said judge and clerk shall make return of such election to the county superintendent, immediately, which return shall be filed in the office of the superintendent: *Provided, further,* That it shall be lawful at such annual meeting and election, on said first Monday in June, to vote upon the question of whether or not any special tax shall be levied for any purpose, such as building or repairing school houses, or for the support of public schools in the district; said meeting may first decide the rate to be levied, not to exceed ten mills on the dollar of taxable property, then proceed to ballot, on which ballot shall be written or printed "Tax yes," or "Tax no," and none but actual resident freeholders and heads of families of said district shall vote at such election; a separate ballot box shall be used for voting on any question of taxation or other business concerning schools and school interests from that used in voting for

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trustee. If a majority of the votes polled at such election are in favor of a tax, the board of trustees must immediately make such levy, and certify the fact, the date thereof, and the rate of tax levied, the year for which levied, and the number of the district, to the clerk of the board of county commissioners and the county assessor; but not more than one such special tax can be levied in any one year.

SEC. 34. Upon receiving such statement from the trustees of any school district, the assessor must assess upon all property in the district subject to taxation the tax so levied and certified to him as aforesaid; but for that purpose he is not required to take new statements from the owners of property, but his assessment of all special taxes so levied may be computed and made upon the valuation of property as fixed by the board of equalization for State and county purposes, and as appears upon the assessment roll in the same year; said special taxes so levied as aforesaid shall become a lien upon the property assessed from the date of assessment, and shall be due and payable at the same time as State and county taxes, and in all respects are to be collected in the same way, except that the assessor must keep a separate list or assessment roll thereof, and when paid must be named in his receipt to the taxpayer as a separate item, and he must pay them to the county treasurer as he pays other taxes; but at the time of payment he must specify to the treasurer what taxes they are and take a separate receipt therefor, and keep separate accounts thereof. The assessor shall receive three per centum on all such special taxes so collected by him, having first rendered his account thereof to, and the same being allowed by, the board of county commissioners, and shall be paid out of said special tax. The board of county commissioners shall furnish the assessor with such blanks as are needed to comply with the provisions hereof. The provisions of this act, for the levy and collection of taxes, shall not apply to independent school districts, now established, which have special laws for the collection of school taxes.

SEC. 35. The regular meetings of the board of trustees shall be held on the last Saturday of March, June, September, and December. The board may, however, hold other special or adjourned meetings as they may from time to time determine.

SEC. 36. It shall be the duty of the trustees of each district to employ teachers on a written contract, and to discharge the same, and to fix, allow, and order paid their salaries and compensation, and the compensation of the clerk and treasurer of the board, and to determine the rate of tuition of non-resident pupils. And they shall have power to discharge any teacher for any neglect of duty or any cause that, in their opinion, renders the service of such teacher unprofitable to the district. But no teacher shall be discharged before the end of his term without a reasonable hearing. Any two of said trustees shall constitute a quorum for the transaction of business. The trustees shall have charge of all school property in their district, and have power to receive in trust all real estate or other property conveyed to said school district, and to convey by deed, duly executed and delivered, all the estate or interest of their district in any school house or site directed to be sold by a vote of their district; and all conveyances made to said board must be made in their corporate name—to trustees of school district No. . . . , county of , State of Idaho. Said trustees have further power, when directed by a vote of their district, to purchase, receive, hold and convey real and personal property for school purposes, and to hold, purchase and repair school houses, and supply the same with necessary furniture, and to fix the location of school houses: *Provided*, That no trustee shall be pecuniarily interested in any contract made by the board of trustees of which he is a member, and any contract made in violation of this section is null and void. The trustees of the respective districts must furnish all things, not herein otherwise provided for, necessary for the use and comfort of the schools in their district, such as fuel, improvements, maps, apparatus and library, and for such purpose may audit and allow accounts against the school fund of their district, not to exceed twenty-five per cent. of the amount of such school fund in any one year. The trustees of each district must make a full report in writing, annually, on the first day of September, to the county superintendent of their county, on blanks furnished, relating to all matters pertaining to schools, as may be required of them by the State or county superintendent. It is the duty of the trustees of the respective districts, on receiving a report from any teacher of the disorderly conduct of any pupil, to decide how said insubordinate pupil

shall be punished, or whether he or she be dismissed from school, and the teacher must enforce the decision so made. The clerk of the board of trustees must, on the first Monday of July of each year, proceed to enumerate the children of school age in his district, and he must not enumerate any except bona fide residents thereof; and the board of trustees must cause a true and certified copy of said census to be transmitted to the county superintendent. School age, as herein used, is defined as all persons between the ages of five and twenty-one years. For said services said clerk shall be allowed as full compensation therefor five cents for each child so enumerated, and the chairman of the board of trustees shall draw his order upon the county auditor, which must be countersigned by the treasurer of said district, for the amount so allowed, and it must be charged against and paid out of the fund of said district.

SEC. 37. Trustees must qualify within fifteen days after receiving notice of their election, by taking the official oath, which oath may be administered by either of the other trustees, or the retiring trustee, and said oath shall be subscribed and filed in the office of the county superintendent.

SEC. 38. Teachers of the public schools must be furnished with a school register by the trustees of the district for the purpose of registering the names of their pupils and their daily attendance at school, and at the close of the term said register must be delivered to the clerk of the board of trustees of the district; and the teachers must also be furnished with a blank report by said trustees, which report said teachers must fill up according to the heading of the same and transmit it to the county superintendent of the county at the close of the term, and no teacher shall be allowed an order for his salary until such report is so made out and transmitted by the clerk of the board of trustees. Every teacher in the public schools must enforce the course of study, the use of the text books, and the rules and regulations prescribed for schools by the State or county superintendent; hold pupils to a strict account for disorderly conduct on the way to and from school and on the play grounds and during recess; suspend for good cause any pupil in the school, and report such suspension to the board of trustees for review. If such action is not sustained by the board, the teacher may appeal to the county

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superintendent, whose decision shall be final. He shall make such reports in addition to those heretofore mentioned as may be required by the superintendent of public instruction of the State or county, or board of trustees; endeavor to impress upon the minds of the pupils the principles of morality, truth, justice and patriotism, and teach them to avoid idleness, profanity and falsehood. No person is authorized to teach any public school within this State who has not a certificate, as provided by this act, good and valid for the period during which such person teaches such public school, and no public school money must be paid to any teacher who is not the holder of a valid certificate, for the time during which said teacher taught a public school.

SEC. 39. Every parent, guardian or other person in the State of Idaho having control and charge of a child or children between the ages of eight and fourteen years shall be required to send such child or children to a public school for a period of twelve weeks in each school year, at least eight weeks of which shall be consecutive, unless such child or children are excused from such attendance by the board of school trustees of the school district in which such parents or guardians reside, upon its being shown to their satisfaction that the bodily or mental condition of such child or children has been such as to prevent his, or her, or their attendance at school, or application to study for the period required, or that such child or children are taught in a private school or at home in such branches as are usually taught in a primary school, or have already acquired the ordinary branches of learning taught in the public schools: *Provided*, In case a public school shall not be taught for a period of twelve weeks, or any part thereof, during the year, within two miles by the nearest traveled road of the residence of any such parent or guardian within the school district, he or she shall not be liable to the provisions of this act.

FIRST.—It shall be the duty of the board of school trustees of each school district in this State, on or before the first Monday in September in each year, to furnish the principal in each public school taught in such district with a list of all children resident in the school district between the ages of eight and fourteen years, said list to be taken from the report of the school census marshal. At the beginning of each school month thereafter it shall be the duty of the

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principal of each school in such district to report to the board of school trustees of such district the names of all children attending school during the previous school month when, if it shall appear, at the expiration of three school months, to the board of school trustees that any parent, guardian or other person having charge or control of any child or children shall have failed to comply with the provisions of this act, the board shall cause demand to be made upon such parent, guardian or person for the amount of the penalty hereinafter provided; when if such parent, guardian or person shall neglect or refuse to pay the same within five days after the making of said demand, the board shall commence proceedings in the name of the school district for the recovery of the fine hereinafter provided, before any court having jurisdiction: *Provided*, That nothing in subdivision one shall apply to any child or children who are actually and necessarily compelled to labor for the support of a parent or parents.

SECOND.—Any parent, guardian or other person, having control or charge of any child or children failing to comply with the provisions of this act shall be liable to a fine of not less than five dollars, nor more than twenty-five dollars for the first offense, nor less than ten dollars nor more than fifty dollars for the second and each subsequent offense, besides the cost of collection.

THIRD.—Whenever it shall appear to the satisfaction of the board of school trustees, of any school district in the State that the parents, guardians or other persons having control of any child or children in attendance upon the public school of said district, in accordance with the provisions of this act, are unable to procure suitable books, stationery, etc., for such child or children, it shall be the duty of such board to procure, or cause to be procured, for such child or children all necessary books, stationery, etc., the same to be paid out of the fund of said school district in the same way that other claims against the school district are now allowed and paid.

FOURTH.—All fines collected under the provisions of this act, shall be paid into the county treasury, the same to be placed to the credit of the school district collecting the same.

FIFTH.—The board of school trustees in each district shall cause to be posted, annually, in three public places in their district, notices of the requirements and penalties of this law.

SEC. 40. The county superintendent in any county in this State, containing ten or more organized school districts may, when he believes that the educational interests of his county would be promoted thereby, hold annually a teachers' institute at such times as he may designate, and such institute must continue in session not less than two nor more than five days. He must give at least ten days' notice of the time and place of holding such institute, by publication in some newspaper published in the county, if there be one, if not, by a written notice to each qualified teacher in the county.

SEC. 41. It is the duty of all teachers engaged in the county, and of all persons holding certificates, to attend such institute and participate in the exercises thereof, and all teachers who may have charge of schools at the time of holding the annual institute must adjourn their schools for the time during which the institute is held.

SEC. 42. All teachers who may adjourn school for the purpose of attending any annual institute must be allowed the same pay while in actual attendance as when teaching, and the county superintendent must certify to the number of days' attendance of each teacher, and the trustees of the several districts must count them as so many days lawfully employed.

SEC. 43. The county superintendent must provide a building, lights, stationery, janitor's services, and all things necessary for the holding of the institute, and must present an itemized account of such expenses, not to exceed fifty dollars, to the board of county commissioners, and it must be paid from the current expense fund of the county.

SEC. 44. No books, papers, tracts or documents of a political, sectarian, or denominational character must be used or introduced in any school established under the provisions of this act, and any and every political, sectarian, or denominational doctrine is hereby expressly forbidden to be taught therein; nor shall any teacher of any district receive any of the public school moneys in which the schools have not been taught in accordance with the provisions of this act.

SEC. 45. Trustees must determine whether pupils outside of their district may attend school in such district, and upon what terms.

SEC. 46. The school year within this State commences

on the first Monday of September of each year. A school month is four weeks of five school days each.

SEC. 47. If the county superintendent fails to make a full and correct report to the State Superintendent of Public Instruction of all statements required by law to be made, he forfeits the sum of one hundred dollars from any moneys due to him from the county, and the board of county commissioners are hereby authorized and required to deduct therefrom the sum aforesaid, upon information from the State Superintendent of Public Instruction, that such reports have not been made.

SEC. 48. The board of school trustees of any school district may, whenever a majority so decide, submit to the electors who are residents, freeholders or heads of families of the district, the question whether the board be authorized to issue coupon bonds to a certain amount, not to exceed four per cent. of the taxable property in said district and bearing a certain rate of interest, not exceeding eight per centum per annum, and payable and redeemable at a certain time, for the purpose of building or providing a school house in said district, with all necessary furniture, as desks, blackboards, globes, charts, outline maps, etc.

SEC. 49. Such elections must be held in the manner prescribed for elections in this act. The ballots must contain the words, "Bonds Yes" or "Bonds No." If two-thirds of the votes cast at such election are "Bonds Yes," the board of trustees must issue such bonds in such forms as the board may direct; they must bear the signature of the chairman of the board of trustees, and be countersigned by the clerk of the school district; and the coupons attached to the bonds must be signed by said chairman and said clerk. And each bond so issued must be registered by the county treasurer in a book provided for that purpose, which must show the number and amount of each bond, and the person to whom the same is issued, and the said bonds must be sold by the said school trustees, as hereinafter provided.

SEC. 50. The school trustees must give notice, in some newspaper, published in the State, for a period of not less than four weeks, to the effect that said school trustees will sell said bonds, briefly describing the same and stating the time when, and the place where, said sale will take place: *Provided*, That the said bonds must not be sold for less than their par value; and the trustees are authorized to

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reject any bids, and to sell said bonds at private sale, if they deem it for the best interest of the district, and all money arising from the sale of said bonds must be paid forthwith into the treasury of the county in which said district may be located, to the credit of said district, and the same are immediately available for the purpose of building or providing the school house authorized by this chapter.

SEC. 51. The faith of each school district is solemnly pledged for the payment of the interest and the redemption of the principal of all bonds which are issued under this act; and for the purpose of enforcing the provisions of this act, each school district is a body corporate, and may sue and be sued, by or in the name of the board of school trustees of said district.

SEC. 52. The school trustees of each district must ascertain and levy, annually, the tax necessary to pay the interest as it becomes due, and a sinking fund to redeem the bonds at their maturity, and said tax is a lien upon the property of said school district, and must be collected in the same manner as other taxes for school purposes.

SEC. 53. When the sum in the sinking fund equals or exceeds the amount of any bond then due, the county treasurer shall post in his office a notice that he will, within thirty days from the date of such notice, redeem the bonds then payable, giving the numbers thereof, and preference must be given to the oldest issue; and if, at the expiration of the said thirty days, the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon must cease, but the treasurer shall at all times thereafter be ready to redeem the same on presentation; and when any bonds are so purchased or redeemed the county treasurer must cancel the same by writing across the face of each bond, in red ink, the word "redeemed," and date of such redemption.

SEC. 54. The county treasurer must pay out of any moneys belonging to a school district the interest upon any bonds issued under this chapter by such school district when the same becomes due, upon the presentation at his office of the proper coupon, which must show the amount due and the number of the bond to which it belonged; and all coupons so paid must be reported to the school trustees at the first meeting thereafter.

SEC. 55. The school trustees of any district must cause

to be printed or lithographed, at the lowest rates, suitable bonds with the coupons attached, when the same becomes necessary, and pay therefor out of any moneys in the county treasury to the credit of the school district.

SEC. 56. If any of the school trustees fraudulently fail or refuse to pay into the proper county treasury the money arising from the sale of any bonds provided for by this act, they are guilty of a felony.

SEC. 57. When any school district within this State, as defined by the board of county commissioners, has within its limits taxable property of the amount of two hundred thousands dollars, or over, as shown by the last assessment roll for the county, it may be organized into an independent school district, upon a vote of one-fifth or over of those within the district who are qualified to vote at school elections, petitioning the said board for the establishment of such district as an independent school district; and if a greater number of such qualified voters do not remonstrate against such establishment, the board must first, clearly by its order of record, define the boundaries of such district, if not already done, and within one month order that the question of so establishing such independent school district must be submitted to a vote of all the electors of the district, who, under the provisions of this act, are authorized to vote for the levy of taxes and issue of bonds, and must make the necessary arrangements for such election, giving at least twenty days' notice thereof and the time and place of holding the same. If a majority of those so voting, vote in favor of so organizing such independent district, said board must make its order of record and declare such district established, and designate it as the independent school district (state name and number of district) in county, Idaho.

SEC. 58. The district so established is constituted a body corporate and succeeds to the title of all property rights and privileges, and assumes, and must discharge and pay, all debts, obligations and duties belonging to or devolving upon the old district or districts of which it is so formed and established, and by its corporate name it may—

FIRST.—Make contracts, sue and be sued.

SECOND.—Take, hold and convey such real and personal property only as is needed for actual school purposes.

THIRD.—To have a corporate seal.

FOURTH.—To choose such officers as are herein provided for.

SEC. 59. The officers of such district consist of a board of trustees composed of six qualified electors, who are resident freeholders within the district. The first board of trustees must be appointed by the board of county commissioners immediately after the district is so established, and hold their offices for terms as follows, to wit: Two, until the next school election under the provisions hereof; two for two, and two for four years after such election, and until their successors are elected and qualified, and said board so appointing must designate the term of each trustee so appointed.

SEC. 60. There must be an election for two members of the board of trustees, to be held on the first Monday of September following the establishment of such district, and biennially thereafter an election must be held to elect two trustees. The clerk of the board must give at least ten days' notice of the time and place of such election by publication in a newspaper, or by three posted notices in the district; and, at all elections under this chapter, voters must have the same qualifications prescribed by this title for school elections. At such elections any person offering to vote may be challenged and required to take all oaths required of voters at general elections in this State, and, on refusing to take such oath, must not be allowed to vote; and the board of trustees may appoint for all such elections two judges and one clerk. Voting must be by ballot, and if, upon counting the ballots, there is a tie, and three qualified persons have the highest and an equal number of votes, the board of trustees must select two from the three; and when there is a failure to elect by reason of a tie vote the board of trustees must select. If any trustee dies, removes from the district, or ceases to have the qualifications for such office, or from any cause his office is vacant, or he neglects or refuses to act, or, without excuse, ceases to attend the meetings of the board for four successive regular meetings thereof, his office thereby becomes vacant, and a majority of said board of trustees may appoint another qualified person to fill his unexpired term.

SEC. 61. No trustee must be interested in any contract let or made by or with the board, or any officer thereof, or in any supplies furnished to or for said district, or a surety for the performance of any contract with said board or

district, or the agent or partner of any contractor with said board or district; and no action can be maintained, or recovery had, against said board or district upon any contract or obligation in which any trustee is so interested, but the same is void. Each trustee must, before entering upon the duties of his office, take and subscribe the official oath, which must be filed with the county school superintendent, and immediately after the appointment of such trustees, by the board of county commissioners as above provided; and after each biennial election the trustees, or a majority thereof, must meet at the school house and organize as a board, and from their number must elect a chairman, a clerk and a treasurer, or they may elect as treasurer some competent and responsible person who is not a trustee. No school officer whatever must receive any pay or compensation for his time or services, or in any way be allowed to make any pecuniary profit or gain by reason of his office, and any school officer or person who has the custody, in any way, of any school funds must give bonds, with at least two good sureties, in double the amount of the funds likely, at any time, to be in his custody.

SEC. 62. Regular meetings of the board of trustees must be held on the second Monday of each month, and special meetings may be called by the chairman of the board, or by any two trustees, by personal notice of the time and place of such meetings to each member of the board; or, if he cannot be found, by leaving such notice at his place of residence, with some person of suitable age and discretion. Four trustees constitute a quorum for the transaction of any business, but a less number may adjourn any regular meeting from time to time until a quorum can be obtained, but no meeting of the board, not provided for by the rules or by law, is legal unless all the members thereof have been notified, as provided for in this section.

SEC. 63. The board of trustees of said district must have power to, and it is their duty:

FIRST.—To make such by-laws for their own government, and for the government of the schools of the district, as they may deem expedient, not inconsistent with the provisions of this chapter.

SECOND.—To employ or discharge teachers, mechanics and laborers, and to fix, allow and order paid their salaries and compensation, and to determine the rates of tuition for non-resident pupils.

THIRD.—To fix the course of study, the exercises, and the kind of text books to be used: *Provided*, That but one kind of text books of the same grade, or branch of study, shall be used in the same department of the school, and after the adoption of any kind of book, it must not be changed in less than three years, unless the price thereof is unwarrantably advanced, or the mechanical quality lowered, or the supply stopped.

FOURTH.—To provide furniture, fixtures and apparatus, and for everything needed in the school house or for the use of the board.

FIFTH.—To rent, repair and insure school houses and property, and preserve the same for the benefit of the schools of the district.

SIXTH.—To build or remove school houses and buildings and to purchase or sell school lots.

SEVENTH.—To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school children under six years of age.

EIGHTH.—To determine the number and qualifications of teachers who shall be employed and length of time the school shall be kept, to fix the time for opening or closing of school, and for the dismissal of primary pupils before the regular time for closing schools.

NINTH.—To provide books for the use of indigent children, on the written statement of the teacher, or their own knowledge, that the parents of such children are not able to purchase them.

TENTH.—To require pupils to be furnished with the proper and suitable books, as a condition of membership in the schools.

ELEVENTH.—To exclude from the schools and school libraries of said district, all books, tracts, papers and catechisms of a sectarian nature.

TWELFTH.—To require teachers to conform to the law and the regulations of the board.

THIRTEENTH.—To protect the morals and the health of the pupils while at school.

SEC. 64. All the provisions of this act, providing for a public school system, wherein not contradictory to, or inconsistent with, the provisions of this chapter, and which may be made applicable to the objects thereof, are adopted as a part of the law governing the establishment and management of independent school district.

SEC. 65. Title (III) three of the political code, and all acts and parts of acts inconsistent with this act, are hereby repealed.

STATE OF IDAHO, }
COUNTY OF ADA. } 88.

This bill having been returned by the Governor with his objections thereto, and after reconsideration, having passed both houses, two-thirds of all the members present in each house having voted in the affirmative, upon a call of the yeas and nays, it has become a law, this 6th day of March, A. D. 1891.

JOHN S. GRAY,
President of the Senate.

F. A. FENN,
Speaker of the House of Representatives.

COUNTY CANYON.

AN ACT

TO CREATE AND ORGANIZE THE COUNTY OF CANYON AND TO DEFINE THE BOUNDARIES OF ADA COUNTY.

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

SECTION 1. That all that portion of the State of Idaho included within the following boundaries, to wit: Commencing at a point in the middle of the channel of Snake river, where the line between township 1 south, of range 1 west, and 1 south, of range 2 west of Boise meridian crosses said river, and running thence due north to the northwest corner of township 1, north, of range 1 west of Boise meridian; thence due east to the southeast corner of section 32 of township 2 north, of range 1 west; thence due north to the northeast corner of section 4 of township 3 north, of range 1 west; thence due west to the northwest corner of township 3 north, of range 1 west; thence due north to the northwest corner township 5 north, range 1 west; thence due east to the present boundary line between the Counties of Ada and Boise; thence along the present boundary line between the Counties of Ada and Boise to the south boundary line of Washington County; thence along the south boundary line of Washington County to the middle of the channel of Snake river; thence up the

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middle of the channel of Snake river to the boundary line between Idaho and Oregon; thence south along the boundary line between Idaho and Oregon to the middle of Snake river; thence up the middle of the channel of Snake river to the place of beginning, is hereby created into the county named and to be known as the County of Canyon, and to be organized as hereinafter provided: *Provided*, That the question of the establishment of the new County of Canyon be first ratified by a majority of the qualified electors of the territory comprised in the proposed new county, voting at the general election to be held in the year 1892, said election to be conducted and the votes canvassed in the same manner as provided by law for the alteration of county lines, and that the ballots shall be substantially in the form following: "For the proposed new county" and "Against the proposed new county;" and if the canvassing board ascertain that a majority of the votes cast at said election be "For the proposed new county," they shall forthwith so declare, and it shall be considered that the question is thus ratified, and it shall be mandatory upon the said canvassing board to immediately certify to the Governor the result of said election.

SEC. 2. All of that portion of the County of Ada within the State of Idaho, not embraced within the boundaries of the County of Canyon as described in section 1 of this act, shall hereafter constitute the County of Ada.

SEC. 3. The Governor of the State of Idaho is hereby authorized and directed, within thirty days after the establishment of the County of Canyon at the general election of 1892, as provided in section 1 of this act, to appoint for the County of Canyon the following officers, to wit:

Three county commissioners; one sheriff; one clerk of the district court, who shall be ex-officio auditor and recorder; one assessor, who shall be ex-officio tax collector; one probate judge, who shall be ex-officio superintendent of public instruction; one treasurer, who shall be ex-officio public administrator; one surveyor, and one coroner, and the officers so appointed shall qualify and enter upon the discharge of their respective duties within thirty days from the date of their appointments. The officers so appointed shall hold their respective offices and shall discharge the duties of such offices until their successors are elected and qualified as is, or may hereafter be, provided by law.

SEC. 4. The county seat of the said Canyon County shall

be, after the establishment of the county, located at the town of Caldwell; and at the next general election in the year one thousand eight hundred and ninety-four the commissioners of said county must submit the question of the permanent location of the county seat of the said County of Canyon to the voters of said county, and the town, city or place receiving the highest number of legal votes is hereby declared to be the permanent county seat of said Canyon County, and the county commissioners of said county are hereby authorized and directed to cause to be removed all of the county records, archives and other county property to the said permanent county seat.

SEC. 5. At the first regular meeting of the boards of commissioners of Ada and Canyon Counties next following the establishment of Canyon County, they shall each appoint a competent accountant, who shall, within five days after their appointment, meet at the county seat of Ada County and take the usual oath of office and proceed, then and there, to ascertain from the books and records in the auditor's and recorder's offices the whole amount of the indebtedness of Ada County at the date this act takes effect, and to apportion said indebtedness pro rata between the Counties of Ada and Canyon according to the taxable property that each county bears to the whole, as they are now organized under the provisions of this act; basis and valuation of property to be taken and computed from the assessment roll and books of Ada County made for the year one thousand eight hundred and ninety-two. Said accountants shall also fix a reasonable cash value on the county court house of Ada County, including furniture and other improvements on the block of ground on which said court house stands, and also a reasonable valuation upon the tract of land and improvements thereon known as the poor farm of Ada County; and they shall apportion the value of said county property upon the same basis as is provided for the apportionment of the indebtedness of Ada County, and said accountants shall in adjusting said indebtedness and value of county property, allow Ada County to retain all of said county property; but the said Ada County must give Canyon County credit in the adjustment of accounts for Canyon County's apportionment of the value of said court house and poor farm and other county property, said credit to apply in the adjustment of Canyon County's portion of the indebtedness to

Ada County. Said accountants shall make out certificates of the adjustment they make, showing a full itemized statement of values, debts and credits, and file one each with the chairman of the board of commissioners of each of the Counties of Ada and Canyon, and whatever amount is shown by said certificates to be due from either one of said counties to the other, the board of commissioners of the proper county shall cause county warrants to be drawn by the auditor of their county in favor of the other county for the amount due, at their first regular session after the filing of the accountants' certificate, as aforesaid: *Provided*, That in fixing values on Ada County property no value shall be placed on the block of ground on which the court house stands, nor on bridges: *Provided, further*, That if said accountants cannot agree as to the value of the county property, as herein stated, the Governor of Idaho shall appoint one disinterested person, who must be a resident of some other county, who shall fix and determine the value of said property, and make out and file certificates accordingly with the chairman of the board of county commissioners of Ada and Canyon Counties.

SEC. 6. Said accountants, provided for in section 5 of this act, shall, in addition to their duties already prescribed, ascertain and apportion all moneys in the county treasury on hand at the time this act takes effect, as shown by the books in the auditor's and treasurer's office of Ada County, between the Counties of Ada and Canyon in the same ratio and upon the same basis as the indebtedness and county property is to be apportioned, as provided in section 5 of this act. Said accountants shall file certificates with the auditors of each of said counties, showing the apportionment of each county, and at the first regular meeting of the commissioners of Ada County after the filing of the accountants' certificate, as hereinbefore provided, they shall cause the treasurer of Ada County to pay over the amount of money to the treasurer of Canyon County as is shown to be Canyon County's proportion by accountants' certificates. Said accountants shall be allowed a reasonable compensation for all of their services rendered under the provisions of this act, to be audited and allowed by the commissioners of each county.

SEC. 7. The recorder of Ada County shall, within ninety days after the establishment of the County of Canyon, transcribe all matters of record from the record books of

Ada County, that should be of record in Canyon County, into suitable books, to be provided by Canyon County, and deliver the same to the recorder of Canyon County, and when so transcribed and delivered they shall be the official records of all property and other matters to which they refer and shall have the same force and effect as the original.

The County of Canyon shall pay to the recorder of Ada County twenty cents per folio for transcribing said records, including indexing of said records. Said accounts to be audited and allowed by the commissioners of Canyon County as other proper accounts against said county.

Approved March 7, 1891.

TOWNS AND VILLAGES.

AN ACT

TO AMEND TITLE XIII OF THE REVISED STATUTES, ENTITLED
TOWNS AND VILLAGES.

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

SECTION 1. The board of trustees shall have power, by ordinance, to provide for the election and the duties and compensation, of a city, town or village assessor, who shall assess the assessable property of the city, town or village for city, town or village purposes in the same manner as county assessors assess property for county purposes, independent of the assessment rolls made by the county assessor.

SEC. 2. That section twenty-two hundred and thirty-eight (2238) of the Revised Statutes be amended so as to read as follows:

Section 2238. The board of trustees have power to levy and collect taxes for general revenue purposes, not to exceed ten mills on the dollar in any one year, on all property within the limits of such incorporated towns or villages, taxable according to the laws of the State of Idaho; the valuation of such property to be taken from the books or assessment rolls of the county assessor of the county in which such town or village is situated, for the last preceding assessment, except where a city, town or village assessor has been elected, as provided in section

one (1) of this act, in which case the valuation shall be taken from the assessment roll made by the said assessor.

SEC. 3. That section twenty-two hundred and thirty-nine of the Revised Statutes be amended so as to read as follows:

Section 2239. The assessor of such town or village must make a full and fair assessment of all the real and personal and other property within the limits of such town or village subject to taxation under the laws of this State, and to do this he must copy and make up such list or assessment so to be made by him from the books and assessment rolls of the last preceding assessment made under the laws of this State by the assessor of the county in which such town or village is situated, except where a city, town or village assessor has been elected under the provisions of section 1 of this act, in which case he must make the assessment as therein provided; and the clerk of said board of trustees must, under the direction of said board of trustees prepare and deliver to the treasurer of such town or village a duplicate of said tax list, keeping in his office the original list returned by the assessor as aforesaid, and he may receive therefor such compensation as the board of trustees may prescribe.

SEC. 4. The board of trustees shall have power to provide by ordinance for the election or appointment of a police magistrate, who shall have jurisdiction over all offenses against the city, town or village ordinances.

He shall have the same power as the district court in the issuance of process, and to enforce due obedience to all orders, rules and judgments made by him. The mayor or chairman of the board of trustees may be eligible to the office of police magistrate, and the board of trustees may fix his compensation.

SEC. 4A. That section twenty-two hundred and thirty-two (2232) of the Revised Statutes be amended so as to read as follows:

SEC. 2232. The corporation attorney and all other officers, except the marshal and police magistrate of all cities, towns and villages now incorporated, or hereinafter to be incorporated, shall be elected by the qualified voters thereof at the same time and in the same manner, in each city, town or village as is prescribed for the election of members of the council or board of trustees. The city or town marshal shall be appointed by the council or board of trustees,

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and shall be subject to removal by them for cause, and the council or board of trustees shall have power to fix and regulate by ordinance the salary and fees of all officers specified in this section at their last regular meeting prior to the election or appointment of such officers, and at any time thereafter to prescribe their duties; and said council or board of trustees shall have power to fill all vacancies that may occur in any office until the next regular election, and shall require the treasurer, and such other officers as they may deem necessary or expedient, to give bonds, with sufficient security, to be approved by them, in such sum or sums as they shall deem necessary, to secure the faithful performance of the duties of their respective offices and as security for the proper appropriation and payment of all moneys coming into their hands as such officers.

SEC. 5. That section twenty-two hundred and thirty-one (2231) of the Revised Statutes be amended so as to read as follows:

SEC. 2231. One-half of all moneys which are collected within the limits of such city, town or village for liquor and other licenses, or from fines or penalties under any ordinance of such city, town or village must be paid over by the officers collecting the same into the city, town or village treasury for general revenue purposes; and one-half of such moneys shall be paid to the trustees of the several school districts of said city, town or village for the benefit of the public schools of said city, town or village, the same to be divided in case there is more than one district in said city, town or village; then among the several districts in proportion to the number of children of school age residing in each, according to the last school census in such district.

SEC. 6. Any city or town incorporated and subject to the provisions of this act shall include within its corporate limits all the territory heretofore included therein; and, also, the board of trustees or council may, by ordinance, include within the corporate limits of such city or town all territory contiguous or adjacent thereto which has been at any time by the owner or proprietor thereof, or by anyone by his authority or acquiescence, laid off or subdivided into lots or blocks containing not more than five acres of land each, whether the same shall have been so laid off, subdivided or platted in accordance with any statute of this State or otherwise, and the board of trustees or council

shall have the power, by ordinance, to compel the owners of any contiguous or adjacent land, or any part thereof, brought within the corporate limits of such city or town aforesaid, to lay out streets, avenues and alleys so that the same shall correspond in width and direction, and be continuous with the streets, avenues and alleys of such city or town, or otherwise, as shall appear most for the convenience of the inhabitants of such city or town and the public, and to vacate any public road heretofore established through such land where necessary to secure regularity in the general system of streets, avenues and alleys through the same.

SEC. 7. Every railroad company owning a right of way through and within the corporate limits of any city, town or village of this State shall open up across and over such right of way streets and alleys, so that the same may conform to, and be continuous with, the laid-out and dedicated streets or alleys of such city, town or village, and said company shall maintain and keep in repair all necessary crossings across such right of way for the convenience of public travel.

SEC. 8. Whenever any land lying contiguous or adjacent to any such city or town, or to any addition or extension thereof, shall be, or shall have been, by the owner or proprietor thereof, or any person by or with his authority or acquiescence, laid off into lots or blocks of not more than one acre of land, whether the same shall have been, or shall be, laid off, subdivided or platted in accordance with any statute of this State or otherwise, or has sold, or begun to sell off such adjacent lands by metes and bounds in tracts not exceeding one acre, or whenever any tract or portion not exceeding ten acres of land may have been, or shall be, contiguous to, or surrounded or bounded by, on one or more sides by any addition or extension, or intended addition, to any such city, whether platted as aforesaid or not, it shall be competent for the board of trustees or council, by ordinance, to declare the same, by such name, designation or description as they may see fit, a part of such city or town; and thereupon and thereafter the corporate limits of such city shall extend to and include such land.

SEC. 9. When land or territory shall be, or shall have been, laid off, subdivided or platted into lots or blocks, and such lots or blocks shall be, or shall have been, for the pur-

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poses of sale or otherwise subdivided into smaller lots or parcels, such smaller lots or parcels shall be treated and regarded as lots or blocks within the meaning of the two preceding sections; and land or territory laid off or subdivided, as in said sections described, shall be regarded and treated as contiguous to such city or town, notwithstanding any stream or embankment or any strip or parcel of land not more than two hundred feet in width may be or lie between such land or territory and the corporate limits of such city or town.

SEC. 10. The streets and alleys in all territory which shall be hereafter attached to towns, cities and villages, or when laid out into lots and blocks, shall be by the owners thereof dedicated to the use of the public.

SEC. 11. The violation of any valid city, town or village ordinance is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the State of Idaho.

SEC. 12. That section twenty-two hundred and forty (2240) of the Revised Statutes be amended so as to read as follows:

Section 2240. The treasurer of such town, city or village receiving such duplicate tax list, within ten days thereafter, must give notice that the said tax list is in his hands for the collection of taxes; that the taxes, if not paid within thirty days from the date of such notices, will be delinquent and subject to all the forfeitures and penalties attaching to delinquent taxes under the general laws of the State; such notice must be made by publication one time in a newspaper published in the city, town or village, or, in case no newspaper is published therein, then by printed or written notices posted in four public places within the limits of said town, city or village.

SEC. 13. That section twenty-two hundred and forty-one, (2241) of the Revised Statutes be amended so as to read as follows:

Section 2241. Whenever any of said taxes become delinquent, as aforesaid, it is the duty of the treasurer of said town, city or village to deliver to the tax collector of the county in which said town, city or village is situated, at least ten days before the time appointed by law for advertising lands for sale for delinquent taxes of the county, a certified list of the delinquent taxes due for the said town, city or village, as well for previous years as for that year; and the lots and parcels of land upon which such delin-

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quent taxes may be due must be advertised and sold by such county tax collectors at the same time and in the same manner, and with like effect, as lands or lots are sold by such county tax collector for county taxes; and such county tax collector must make out certificates of sale, and must make, execute and deliver tax collector's deeds for lots or land so sold, within the same time and in the same manner as is now provided by law when land is sold for delinquent county taxes; and such certificates and deeds have the same force and effect as those made in cases of sale for delinquent county taxes; the county tax collector must forthwith pay over to the town, city or village treasurer all moneys collected by him for delinquent taxes as aforesaid.

SEC. 14. Whereas an emergency exists, this act shall take effect and be in force from and after its passage.

Approved March 7, 1891.

INSANE ASYLUM—APPROPRIATION.

AN ACT

TO APPROPRIATE THE SUM OF THIRTY-FIVE THOUSAND DOLLARS FOR THE GROUNDS, BUILDINGS, AND IMPROVEMENTS OF THE IDAHO INSANE ASYLUM.

WHEREAS, The main building of the Idaho insane asylum was destroyed by fire November 24, 1889, therefore

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

SECTION 1. That the sum of thirty-five thousand dollars be, and the same is, hereby appropriated out of any funds in the State treasury not otherwise appropriated for the purpose of purchasing grounds, erecting buildings and making improvements for the Idaho insane asylum.

SEC. 2. The board of directors are hereby directed to add to the grounds, buildings and improvements of the Idaho insane asylum as is necessary to the proper and economical care and treatment of the patients, at as early a date as practicable: *Provided*, That not more than twenty thousand dollars be expended during the year 1891 for grounds, buildings and improvements.

They shall advertise for bids for all material to be furnished, and all labor to be done, and shall award the con-

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tract to the lowest responsible bidder, but they shall reserve the right to reject any or all bids. The board may have the work done under the supervision of their own medical superintendent.

SEC. 3. An emergency existing, therefore this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 7, 1891

JURIES.

AN ACT

TO AMEND SECTION 3938 OF THE REVISED STATUTES OF IDAHO,
RELATING TO TRIAL BY JURY.

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

SECTION 1. That section 3938 be amended to read as follows:

A trial jury is a body of men returned from the citizens of a particular district before a court or officer of competent jurisdiction and sworn to try and determine by a verdict a question of fact. Three-fourths of the jury may render a verdict in a civil action, and such verdict shall have the same effect as a unanimous verdict.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

JURY—IN CASES OF MISDEMEANOR.

AN ACT

TO AMEND SECTIONS 7781 AND 7930 OF THE REVISED STATUTES
OF IDAHO, RELATING TO TRIAL BY JURY IN CASES OF
MISDEMEANOR.

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

SEC. 1. That section 7781 of the Revised Statutes of Idaho be amended to read as follows:

Issues of fact must be tried by jury, unless a trial by jury be waived in criminal cases not amounting to felony by the consent of both parties expressed in open court and

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entered in the minutes. In case of misdemeanor, the jury may consist of twelve, or any number less than twelve upon which the parties may agree in open court, but five-sixths of the jury may render a verdict, which verdict shall have the same effect as a unanimous verdict.

SEC. 2. That section 7930 of the Revised Statutes of Idaho be amended to read as follows: When a verdict is rendered and before it is recorded, the jury may be polled at the request of either party, in which case they must be severally asked whether it is their verdict; and if five-sixths answer in the affirmative, then the verdict shall be recorded; but if a less number answer in the affirmative, the jury must be sent out for further deliberation.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

LEMHI COUNTY BOUNDARIES.

AN ACT

TO ESTABLISH THE SOUTHEAST CORNER AND DEFINE THE SOUTHERN AND EASTERN BOUNDARIES OF LEMHI COUNTY, IDAHO.

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

SECTION 1. That the southeast corner of township eleven north, of range thirty-four east is hereby established as the southeast corner of Lemhi County, Idaho; and a line running due north from such corner along the range line between ranges 34 and 35 east to the State line between the States of Idaho and Montana is hereby fixed and defined as the east line of said Lemhi County; and a line running due west from said southeast corner of said township eleven north, of range thirty-four east, along the township line between townships 10 and 11 north to Little Lost river, on the Custer County line, is hereby fixed and defined as the south line of said Lemhi County.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. Whereas an emergency exists, this act shall take effect and be in force from and after its passage.

Approved March 7, 1891.

INSURANCE COMPANIES—COUNTY MUTUAL.

AN ACT

TO AUTHORIZE THE ORGANIZATION OF COUNTY MUTUAL FIRE
INSURANCE COMPANIES.

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

SECTION 1. It shall be lawful for any number of persons, not less than twenty-five, residing in any county in this State who, collectively, shall own property not less than twenty-five thousand dollars in value, which they desire to insure, to form themselves into a company for mutual insurance against loss or damage by fire, which corporation shall possess other powers and be subject to other duties of corporations, and the corporate name thereof shall embrace the name of the county in which the business office of the said company shall be located.

SEC. 2. Every company so formed shall choose of that number, not to exceed thirteen directors, to manage the affairs of such company, who shall hold their office for one year, or until others are elected and qualified; and such directors shall choose from their number a president, vice-president, secretary and treasurer, and said treasurer and secretary shall give such bond as shall be required by the board of directors of said company.

SEC. 3. The directors of such company shall file their articles of incorporation, together with a copy of their by-laws and the names of the officers of such company, in the office of the county auditor of the county in which such company is located, and shall keep a record of their proceedings in a book kept for that purpose, together with the names of all persons having property insured, and the amount of property so insured by said person, which record shall be kept open for inspection to all the members in such company at the office of the secretary thereof.

SEC. 4. The directors of such company may issue policies, signed by the president and secretary, agreeing, in the name of the company, to pay all losses or damage by fire, for a term not exceeding five years, to the holder of such policy, not exceeding the sum named therein.

SEC. 5. Every person insured against loss or damage by fire, shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns, to pay his pro rata share to the company of all

losses or damage by fire which may be sustained by any member thereof. And every such undertaking shall, within five days after the execution thereof, be filed with the secretary in the office of said company, and shall remain on file in said office, except when required to be produced in court as evidence. He shall also, at the time of receiving insurance, pay such percentage in cash, or such reasonable sum named in the policy, as may be required by the rules and by-laws of the company.

SEC. 6. Every member of said company who sustains loss by fire shall immediately notify the secretary of said company, or, in case of his absence, the president thereof, specifying the property destroyed, the damage and cause thereof, which officer shall forthwith ascertain and adjust the amount of such loss or damage, or who shall forthwith convene the directors of such company, whose duty it shall be to appoint a committee of not more than three members of said company to ascertain the amount of such loss; and in case of the inability of the parties to agree upon the amount of such damage the claimant shall choose a disinterested party, and the company shall choose a disinterested party, who shall constitute a board of arbitration to settle such loss; and in case these parties cannot agree they shall choose a third party to act with them, and said board of arbitration shall have power to examine witnesses and determine all matters in dispute, and the decision of said board shall be final.

SEC. 7. The company, under the provisions of this act, may classify property insured at the time of issuing the policy thereon under different rates, corresponding as nearly as may be to the greater or less risk from fire or loss which may attach to each several building or personal property insured. Whenever the amount of any loss shall be ascertained, and there are not sufficient funds in the treasury to pay such loss or damage, the president or secretary shall convene the directors of said company, who shall make assessments on the property insured, taking in connection the rate of premium under which it may have been classified.

SEC. 8. It shall be the duty of the secretary, whenever such assessments shall have been completed, to notify every person composing such company, by letter sent to their postoffice address, of the amount of such loss, and the sum due from him as his share thereof, and the time

when and to whom such payment is to be made, and such time shall not be less than thirty days nor more than sixty days from the time of such notice.

SEC. 9. Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of such company so formed who shall wilfully neglect to perform the duties imposed upon him under the foregoing sections of this act shall be personally liable to the individual sustaining such loss.

SEC. 10. No company formed under the provisions of this act shall insure any property outside the county in which such organization is formed, nor within the limits of any incorporated town or city, except only warehouses of farmers' organizations, and such other buildings as may be used in connection with the business of agriculture. All farm buildings within the limits of the county, and all other property of the farm subject to damage by fire, may be insured under the provisions of this act.

SEC. 11. The directors of each company shall be chosen annually by ballot, as shall be provided by the by-laws of such company, but each member shall have one vote, and no member shall vote by proxy.

SEC. 12. It shall be the duty of the secretary of each company, immediately preceding the annual election, to prepare a statement, which shall be a complete report of the amount insured, the number of policies issued, and to whom, and all other matters pertaining to the business of such companies, which statement shall be reported to the board of directors and subject to examination by any member of said organization.

SEC. 13. Any company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act, and may therein prescribe the compensation for its officers.

SEC. 14. This act shall take effect from and after its passage.
Approved March 7, 1891.

LABOR.

AN ACT

TO GIVE FORCE AND EFFECT TO SECTION 2, OF ARTICLE 13, OF
THE CONSTITUTION.

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

SECTION 1. That not more than eight hours actual work

shall constitute a lawful day's work on all State, county and municipal works: *Provided*, That nothing in this act contained shall be construed as meaning any labor except manual labor, employed by the day, and nothing in this act contained shall apply to State, county or municipal officials, or to any employees of the State, or any county or municipality, who are paid monthly or yearly salaries.

SEC. 2. That any and all bids for work on public buildings or other public works of the State, or of any county or municipality of the State, shall expressly state and declare that all laborers and mechanics employed by the day on such buildings or public works, or in the preparation of materials to be directly used for or in the construction of such buildings or public works, shall be employed on the basis of eight hours as a lawful day's work.

Approved March 9, 1891.

WAGON ROAD—SURVEY.

AN ACT

TO PROVIDE FOR THE SURVEY, LOCATION, AND TO ESTIMATE
THE COST OF A STATE WAGON ROAD.

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

SECTION 1. It shall be the duty of the Governor to appoint, within sixty days after this act goes into effect, three persons of suitable qualifications who shall, within the year 1892, after their appointment and qualification, proceed to survey, locate and estimate the cost of a wagon road to be constructed by the State substantially between the following points: Commencing at Banner, in the County of Boise, and extending northward, by way of Deadwood, Bear Valley, Alton and Warrens, to Warm Springs, in Idaho County, with a branch thereof from such point in the vicinity of Deadwood, in Boise County, as the surveyors herein provided for shall deem most practicable, to the head of the North Fork of Salmon river at the line between Idaho and Montana, by way of the mouth of the Yankee Fork and Salmon river, and commencing, also, at Clearwater, in Idaho County, and extending northward to the forks of the St. Mary's, in Kootenai County, with a branch extending also from Clearwater to Elk City, in

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Idaho County. The surveyors appointed by this act shall personally examine the routes between the points named and shall report which one, in their opinion, seems most practicable, and shall mark it so as to be readily ascertained and followed, and shall measure the route deemed best, and erect monuments at intervals not greater than one mile, and shall note all bridges of considerable importance, and shall estimate the cost of said road by sections not exceeding ten miles in length, submitting estimates of roads of different widths and grades and by different routes, if in their judgment such changes might be expedient; and shall submit a report of all their doings to the Governor, to be by him submitted to the next session of the legislature, within fourteen months after their appointment and qualification. Said report shall be in such form and substance that, if approved by the legislature, and provision be made therefor, then contracts may be made for its construction without further survey and location. The surveyors herein provided for may employ necessary assistants.

SEC. 2. The sum of three thousands dollars, or so much thereof as may be necessary, is hereby appropriated out of the general fund available during 1892 to defray the expenses incurred under this act.

Approved March 10, 1891.

INSANE PERSONS.

AN ACT

RELATING TO THE DELIVERY OF INSANE PERSONS TO THE ASYLUM, AND AMENDING SECTION 780 OF THE REVISED STATUTES.

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

SECTION 1. That section seven hundred and eighty of the Revised Statutes be amended so as to read as follows:

Section 780. The person delivering insane persons to the asylum is allowed therefor thirty cents per mile, one way only, for the legal distance from the county seat of the county where such insane person was committed to the asylum, and for every additional patient taken at the same time, fifteen cents per mile; he must also receive the necessary expense of an assistant where more than one person is

required to convey such insane persons, payment thereof to be made by the State Treasurer on the warrant of the State Auditor, upon the approval of the State board of examiners.

Approved March 11, 1891.

CORPORATIONS—PERSONAL LIABILITY.

AN ACT

TO AMEND SECTION TWO THOUSAND SIX HUNDRED AND NINE OF THE REVISED STATUTES, AS TO THE PERSONAL LIABILITY OF STOCKHOLDERS OF CORPORATIONS, AND TO CONFORM THE SAME TO SECTION SEVENTEEN, OF ARTICLE ELEVEN, OF THE CONSTITUTION.

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

That section two thousand six hundred and nine of the Revised Statutes is amended to read as follows:

Section 2609. Each stockholder of a corporation is individually and personally liable for its debts and liabilities to the full amount unpaid upon the par or face value of the stock or shares owned by him. Any creditor of the corporation may institute actions against any of its stockholders jointly or severally, and in such action the court must determine the amount unpaid upon the stock held or owned by each defendant, and a several judgment must be entered against him for a sum not exceeding such amount; and nothing in this title must be construed to render any stockholder individually or personally liable, as such stockholder, for debts or liabilities of the corporation, either at the suit of a creditor or for assessments or calls, to an amount exceeding the balance unpaid upon his stock, or the difference between the amount that has been actually paid upon his stock and the par or face value thereof, except when so liable on the ground of fraud or misrepresentation, or concealment, or for neglect or misconduct as an officer, agent, stockholder, or member of the corporation; and no corporation shall issue any stock as paid up, in whole or in part, or credit any amount, assessment or call as paid upon any of its stock, except for money, property, labor or services actually received by the corporation, or actually paid upon the indebtedness of the corporation

as provided in this section, to the full value of the amount credited upon such stock. If any stockholder of any insolvent corporation pays the full amount unpaid upon the stock held by him, as above defined, upon the over due debts of the corporation, incurred while he was such stockholder, he is relieved from any further personal liability upon his stock, but not from any liability for fraud, neglect or misconduct. The liability of each stockholder is determined by the amount of stock or shares owned by him at the time the debt or liability was incurred by the corporation; and such liability is not released or discharged by any subsequent transfer of stock. When such liability does not arise upon contract it shall be deemed to be incurred when judgment therefor is obtained against the corporation. The term stockholder, as used in this section, applies not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appears on the books in the name of another; and, also, to every person who has advanced the installments or purchase money, or subscribed for stock, in the name of a minor, so long as the latter remains a minor; and, also, to every guardian or trustee who voluntarily invests any trust funds in the stock. Trust funds in the hands of a guardian or trustee are not liable under the provisions of this section, by reason of any such investment; nor is the person for whose benefit such investment is made responsible in respect to the stock until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment continues until that period, or while the investment continues. Stock held as collateral security, or by a trustee who is not the beneficial owner, or in any other representative capacity without a beneficial interest, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above mentioned, so as to charge him with the debts or liabilities of the corporation, but the pledgor, or person, or estate represented is to be deemed the stockholder, as respects such liability. Members of corporations not organized for profit and having no capital stock are not individually or personally liable for its debts or liabilities, unless such liability is imposed by the by-laws of the corporation and then only to the extent so imposed; any such liability may be enforced, to the extent imposed by

the by-laws, by joint or several actions against members, as before provided. The liability of each stockholder of a corporation not formed under the laws of this State, but doing business within the State, is the same as the liability of stockholders of corporations organized under the laws of this State.

SEC. 2. That all corporations doing business in this State, whether organized under the laws of this State, or some other State, desiring to avail themselves of the provisions of this act, shall cause to be written or printed after the corporate name, on its stock certificates, letter and bill heads, and all its official documents the word "limited;" also after the corporate signature to all official or public documents the word "limited."

Approved March 11, 1891.

FEES—COUNTY OFFICERS.

AN ACT

CONCERNING FEES AND COMPENSATION OF COUNTY OFFICERS.

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

SECTION 1. The clerk of the district court may lawfully charge, demand and receive the following fees for services rendered in discharging the duties imposed on him by law:

For entering each suit on the register of actions, and making the necessary entries therein, twenty-five cents.

For issuing every summons, attachment, writ of injunction, or other original writ or process, fifty cents.

For issuing each subpoena, ten cents.

For filing each paper, fifteen cents.

For entering of record every motion, rule, order, default, non-suit, or discontinuance, twenty cents per folio.

For entering every cause on the calendar, and making a copy thereof for the bar, for each term of court, fifty cents.

For calling and swearing every jury, fifty cents.

For receiving and entering each verdict of a jury, fifty cents.

For entering every final judgment, for each folio, twenty cents.

For making a copy of any paper or record, including certificate, when required, for each folio, twenty cents.

For making and filing judgment roll, fifty cents.

For every certificate under seal, twenty-five cents.

For issuing every commission to take testimony, including certificate and seal, one dollar.

For taking down testimony or depositions, including oath, certificate and seal, for each folio, twenty cents.

For issuing every execution, or other final process, fifty cents.

For issuing every decree or order of sale, certificate and seal, for each folio, twenty cents.

For receiving and filing remittitur and accompanying papers from the supreme court, twenty-five cents.

For taking each bond required by law, twenty-five cents.

For acknowledgment of deed, or other instrument, including seal, twenty-five cents.

For swearing witnesses, ten cents.

For taking affidavit, including jurat, fifteen cents.

For entry of each case in judgment docket, fifty cents.

For entering satisfaction of judgment, twenty-five cents.

For filing and entering transcript of judgment from justice's court, fifty cents.

For all services not herein enumerated and of him required, or which he is called on to perform, such fees as are herein allowed for similar services.

For final papers of naturalization, five dollars, which includes all services in swearing witnesses, making minutes, recording, certifying, and issuing such papers under seal.

SEC. 2. The sheriff is allowed and may demand and receive the fees hereinafter specified:

FIRST.—For serving a summons and complaint, or any other process by which an action or proceeding is commenced, on each defendant, one dollar.

SECOND.—For serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property, one dollar.

THIRD.—For his trouble and expense in taking and keeping possession of and preserving property under attachment or execution, or other process, such sum as the court may order: *Provided*, That no more than three dollars per diem be allowed to a keeper.

FOURTH.—For taking a bond or undertaking in any case in which he is authorized to take the same, fifty cents.

FIFTH.—For copy of and making return on any writ, pro-

cess, or other paper, when demanded or required by law, for each folio, twenty cents.

SIXTH.—For serving every notice, rule, or order, fifty cents.

SEVENTH.—For making and posting notices, and advertising property for sale on attachment or execution, or under any judgment or order of sale, exclusive of the costs of publication, each notice, twenty cents per folio.

EIGHTH.—For serving a writ of possession or restitution, putting a person in possession of premises and removing the occupant, three dollars.

NINTH.—For holding each inquest, a trial of right of property, to include all services in the matter except mileage, three dollars.

TENTH.—For serving a subpoena, for each witness summoned, twenty-five cents.

ELEVENTH.—For commissions for receiving and paying over money on execution or other process, when land or personal property has been levied on and sold, on the first one thousand dollars, two per cent.; on all sums above that amount, one per cent.; but in no case of sale of real estate shall his commission exceed the sum of one hundred dollars, and when the amount of such sale is credited on the debt and no money is transferred, then one-half of such commission.

TWELFTH.—For commissions for receiving and paying over money on execution without levy, or where lands or goods levied on are not sold, on the first one thousand dollars, one and one-half per cent.; and one-half of one per cent. on all over that sum, but not to exceed in any case fifty dollars. The fees herein allowed for the levy of an execution, costs for advertising and percentage for making or collecting the money on execution, must be collected from the judgment debtor by virtue of such execution, in the same manner as the sum therein directed to be made.

THIRTEENTH.—For drawing and executing a sheriff's deed, including the acknowledgment, to be paid by the grantee before delivery, three dollars.

FOURTEENTH.—For executing a certificate of sale, exclusive of the filing and recording the same, one dollar.

FIFTEENTH.—For making every arrest in a criminal proceeding, two dollars.

SIXTEENTH.—For summoning each juror, twenty-five cents.

SEVENTEENTH.—For serving a subpoena in a criminal action or proceeding, for each witness summoned, twenty-five cents.

EIGHTEENTH.—For traveling, to be computed in all cases from the court house, to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule, order, subpoena, venire, attachment on property, to levy an execution, to post notice of sale, to sell property under execution or other order of sale, or execute an order of arrest, or order for the delivery of personal property, writ of possession or restitution, to hold inquest or trial of right of property, for each mile actually and necessarily traveled, in going only, thirty-five cents; for traveling to execute any warrant of arrest, subpoena, venire, or other process in criminal cases, or for taking a prisoner from prison before a court or magistrate, or for taking a prisoner from the place of arrest to prison, or before a court or magistrate, for each mile actually and necessarily traveled, in going only, thirty-five cents; for each additional prisoner taken at the same time, fifteen cents per mile; but if any two or more papers be required to be served in the same action or proceeding, civil or criminal, or be in the possession of the sheriff for service at the same time, and in the same direction, one mileage only shall be charged; and in serving a subpoena, venire, process or paper, when two or more jurors, witnesses, parties or persons to be served reside or are found in the same direction, traveling fees must be charged only for the most distant; and only one mileage per day must be charged for taking a prisoner from prison before a court or magistrate; and constrictive mileage must in no case be charged or allowed. For all services arising in justices courts, the same fees as are allowed to constables for like services.

NINETEENTH.—For executing every sentence of death, seventy-five dollars, to be paid by the county.

TWENTIETH.—The sum of not more than one (1) dollar per day for each prisoner confined in the county jail, as remuneration in full for the board, clothing and lights of such prisoner. He shall be allowed a jailor, for whose services he shall be allowed the sum of not less than two dollars, nor more than three dollars per day for each day a prisoner or prisoners are confined in the county jail of his county, to be fixed by the board of county commissioners. For all services under the election laws, the same mileage and fees as in this act provided for similar services.

SEC. 3. The probate judge shall receive as compensation for services as such officer not more than two thousand dollars, nor less than five hundred dollars, per annum, and may charge and collect the following fees: When sitting as a committing magistrate in preliminary examinations, three dollars; for the trial of criminal causes, five dollars; for issuing warrant of arrest, fifty cents; for taking bail after commitment, fifty cents; for examination of insane person, five dollars. In case the fees received in any one year shall not amount to the minimum compensation herein provided in any year, he shall be paid by the county a sum sufficient to make his aggregate yearly compensation equal to said minimum compensation. The clerk of the probate court, or the probate judge acting as clerk, is allowed, and may demand and receive, the fees hereinafter specified: the same fees allowed the clerk of the district court or justice of the peace for the same services. For issuing letter testamentary, or of administration, or of guardianship, fifty cents; for writing and posting all the required copies of each notice required to be posted, fifty cents; for each notice, including all the copies, for publication and posting, in addition to costs of publication, fifty cents; for recording wills or other papers required by law to be recorded, for each folio, twenty cents; for copies of all papers or proceedings in the probate court, including certificate and seal, when required, for each folio, twenty cents; for entering each order, for each folio, twenty cents; for all other services, the same fees as are allowed the clerk of the district court for like services: *Provided*, That if upon the filing of the appraisement of any estate it appears that the whole estate is not of the value of one thousand dollars, no further clerk's fees must be charged.

SEC. 4. The county recorder and auditor is allowed, and may receive for his services, the following fees and compensation, to be paid him by the party procuring his services as recorder: For filing, indorsing and indexing every instrument, paper or notice, when the instrument, paper or notice is not for record, but to be kept on file, fifty cents; for recording every instrument, paper or notice, for each folio, twenty cents; for copies of any record or paper, for each folio, twenty cents; for each certificate under seal, when required, twenty-five cents; for abstract of title and searching the records therefor, and for each conveyance or incumbrance certified, fifty cents; for entry of discharge

of mortgage or other instrument on the margin of the record, witnessing and indexing the same, twenty-five cents; for recording every town plat or map, for first one hundred lots or less, three dollars and fifty cents; and for each additional lot, one cent; for taking acknowledgments, including seal, fifty cents; for filing, recording and indexing marriage certificates, one dollar; for administering to the locator the oath and certifying the same on the location notice of a mining claim, and for filing, recording and indexing each notice, two dollars; which must be divided equally between him and his mining deputy, who receives such notice; for recording each mark or brand, fifty cents; for administering an oath, including jurat, twenty-five cents; and certifying same when required, twenty-five cents additional; for all other services as recorder, not enumerated herein, the same fees allowed the clerk of the district court for like services.

As the auditor:

He is allowed and may receive, when not otherwise provided by law, fees as follows:

For administering the oath, including a jurat, if required, twenty-five cents.

For each paper filed, ten cents.

For all services in connection with the assessment and collection of taxes and other duties relating to revenue for each year, except licenses, ten cents per name.

For all other services as clerk of the board of county commissioners, such salary as the said board may provide, not exceeding in counties of the first class, \$200; second class, \$175; third class, \$150; fourth class, \$125; fifth class, \$100.

For making records or furnishing copies thereof, twenty cents per folio.

SEC. 5. County commissioners of each county shall receive the sum of six dollars for each day actually engaged in transacting county business, and twenty cents per mile for each mile necessarily traveled in transacting county business.

SEC. 6. The county treasurer shall be allowed on all moneys received and disbursed by him two per cent. on the first thirty thousand dollars; and one per cent. on all over thirty thousand dollars: *Provided*, That nothing in this act shall be construed so as to allow any officer a percent-age on both receiving and disbursing: *Provided, further*,

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That no percentage shall be allowed to treasurers for receiving and disbursing school moneys.

SEC. 7. That section 2161 of the Revised Statutes be amended so as to read as follows:

Section 2161. The following are county charges:

FIRST.—Charges incurred against the county by virtue of any provision of this title or this act.

SECOND.—The compensation allowed by law to constables and sheriffs for executing process on persons charged with criminal offenses; for services and expenses in conveying criminals to jail; for the service of subpoenas issued by or at the request of the district attorneys and for other services in relation to criminal proceedings.

THIRD.—The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail.

FOURTH.—The compensation allowed by law to county officers in criminal proceeding, when not otherwise collectable.

FIFTH.—The sum required by law to be paid to grand jurors and indigent witnesses in criminal cases.

SIXTH.—The accounts of the coroner of the county, for such services as are not provided to be paid otherwise.

SEVENTH.—All charges and accounts for services rendered by justices of the peace or probate judges for services in the examination of persons charged with crime, not otherwise provided for by law.

EIGHTH.—The necessary expenses incurred in the support of county hospitals and the indigent sick, and the otherwise dependent poor, whose support is chargeable to the county.

NINTH.—The contingent expenses, necessarily incurred for the use and benefit of the county.

TENTH.—Every other sum directed by law to be raised for any county purpose, under the direction of the board of county commissioners, or declared to be a county charge. All officers whose fees are herein provided for shall render an annual report, under oath, to the board of county commissioners of all fees received as such officer; and when it shall appear that the amount so received does not equal the minimum compensation provided in article eighteen, section seven, of the Constitution, for such office, said officer shall be paid by the county a sum sufficient to make his salary as such officer equal to such minimum compen-

sation; and in case it exceeds the maximum compensation therein provided, such officers shall pay over the excess to the county treasurer.

SEC. 8. That sections 276 and 2145 of the Revised Statutes, and all acts and parts of acts inconsistent with this act be, and they are hereby repealed.

SEC. 9. Whereas an emergency exists therefor, this shall be in force and take effect from and after its passage.

Approved March 13, 1891.

CHATTEL MORTGAGES.

AN ACT

TO AMEND SECTIONS 3386 AND 3387, OF TITLE 12, OF CHAPTER 4, OF THE LAWS OF IDAHO, RELATING TO MORTGAGES OF PERSONAL PROPERTY.

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

SECTION 1. That title 12, of chapter 4, sections 3386 and 3387, be amended so as to read as follows:

Section 3386. A mortgage of personal property is void as against creditors of the mortgagor and subsequent purchasers and incumbrances of the property in good faith and for value, unless:

FIRST.—It is accompanied by the affidavit of the mortgagor that it is made in good faith and without any design to hinder, delay or defraud creditors.

SECOND.—It is acknowledged or proven, as grants of real estate, and the mortgage, or a true copy thereof, is filed for record with the county recorder of the county where such property is located and kept.

SEC. 2. Section 3387 is amended to read as follows:

Section 3387. Upon the receipt of any such instrument the recorder shall indorse on the back the time of receiving it, and shall file the same in his office, to be kept there for the inspection of all persons interested, and the recorder shall keep a book in which shall be entered a minute of all mortgages of personal property; such book shall be ruled off into separate columns, with heads as follows: "Time of reception," "Name of mortgagor," "Date of instrument," "Amount secured," "When due," "Property mortgaged," "Before whom sworn to and acknowledged." and "Remarks."

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The proper entry shall be made under each of such heads, and the recorder shall receive the sum of fifty cents, and no more, for filing any such mortgage, which amount he may demand before filing any such mortgage: *Provided*, That property in transit from the possession of the "mortgagee" to the county in which the "mortgagor" resides, or to a location for use, shall, for a reasonable length of time for such transportation, be considered as located in the county to which the same is being removed: *Provided, further*, That if the mortgagee receive and retain actual possession of the property mortgaged, he may omit the filing of his mortgage during the continuance of such actual possession.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 13, 1891.

HORTICULTURE.

AN ACT

TO PROTECT AND PROMOTE THE HORTICULTURAL INTERESTS OF THE STATE, AND TO DESTROY INSECT PESTS IN ORCHARDS AND ELSEWHERE.

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

SECTION 1. Whenever a petition is presented to the board of county commissioners of any county, and signed by twenty or more persons who are resident freeholders and possessors of an orchard, or both, stating that certain or all orchards or nurseries, or trees of any variety, are infested with scale insect of any kind injurious to fruit, fruit trees and vines, codlin moth or other insects that are destructive to trees, and praying that a commissioner be appointed by them whose duty it shall be to supervise their destruction, as herein provided, the board of commissioners shall, within twenty days thereafter, select a commissioner for the county, to be known as the county horticultural commissioner. The said commissioner shall serve for a period of two years from the date of appointment.

SEC. 2. It shall be the duty of the county horticultural commissioner in each county, whenever he shall deem it necessary, to cause an inspection to be made of any orchard,

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or nursery, or trees, or any fruit-packing house, storeroom, salesroom, or any other place in his jurisdiction, and if found infested with scale bug, codlin moth or other insect pests injurious to fruit, trees and vines, he shall notify the owner or owners, or person or persons in charge or possession of said trees or place, as aforesaid, that the same are infested with the said insects, or any of them, or their eggs or larva, and he shall require such person or persons to disinfect or destroy the same within a certain time, to be specified. If within such specified time such disinfection or destruction has not been accomplished, the said person or persons shall be required to make application of such treatment, for the purpose of destroying them, as said commissioner may prescribe.

Said notices may be served upon the person or persons owning or having charge or possession of such infested trees, or places, or articles, as aforesaid, by the commissioner or any person deputed by him for that purpose; or, they may be served in the same manner as a summons in a civil action. If the owner or owners, or any person or persons in charge or possession in of any orchard, or nursery, or trees, or places, or articles infested with said insects, or any of them, or their larva or eggs, after having been notified as above to destroy the same, or make application of treatment as directed, shall fail, neglect or refuse so to do, he or they shall be deemed guilty of maintaining a public nuisance, and any such orchards, nurseries, trees, or places, or articles thus infested shall be adjudged, and the same is hereby declared, a public nuisance, and may be proceeded against as such. If found guilty, the court shall direct the aforesaid county horticultural commissioner to abate the nuisance. The expenses thus incurred shall or may be a lien upon the real property of the defendant, or property proceeded against.

SEC. 3. Said horticultural commissioner shall have power to divide the county into districts and to appoint a local inspector for each of said districts. The horticultural commissioner, or his local inspectors, shall have full authority to enter into any orchard, nursery, or place or places where trees or plants are kept and offered for sale or otherwise, or any house, storeroom, salesroom, depot, or any other such place in their jurisdiction, to inspect the same or any part thereof.

SEC. 4. The county horticultural commissioner, and

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each local inspector, shall be paid for each day actually engaged in the performance of his duty under this act, payable out of the county treasury of his county, such compensation as shall be determined by resolution of the board of county commissioners before entering into the discharge of his or their duties.

SEC. 5. The said horticultural commissioner, shall have power to remove or dispense with any local inspector at any time.

SEC. 6. If the horticultural commissioner of any county shall fail to perform the duties of his office, as required by this act, he may be removed; or, in case of vacancy by death, resignation or other cause, the county commissioners shall fill such vacancy thus formed, by appointment.

SEC. 7. It shall be the duty of the county horticultural commissioner to keep a record of his and local inspectors official doings, and to make a quarterly report to the board of county commissioners, or they may withhold warrant for salary of said commissioner or local inspectors until such time as said report is made.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved March 13, 1891.

GRAND JURIES—DISPENSING WITH.

AN ACT

TO PROVIDE FOR PROSECUTING OFFENSES ON INFORMATION,
AND TO DISPENSE WITH THE CALLING OF GRAND JURIES
EXCEPT BY ORDER OF THE DISTRICT JUDGES.

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

SECTION 1. That the several courts of this State shall possess and may exercise the same power and jurisdiction to hear, try, and determine prosecutions upon information for crimes, misdemeanors and offenses, to issue writs and process, and do all other acts therein as they possess and may exercise in cases of like prosecutions upon indictments.

SEC. 2. All informations shall be filed during term, in the court having jurisdiction of the offense specified therein, by the district attorney as informant; he shall subscribe his name thereto and indorse thereon the names

of the witnesses known to him at the time of filing the same; and at such time before the trial of any case as the court may by rule or otherwise prescribe, he shall indorse thereon the names of such other witnesses as shall then be known to him.

SEC. 3. All information shall be verified by the oath of the district attorney, complainant, or some other person, and the offense charged therein shall be stated with the same fullness and precision in matters of substance as is required in indictments in like cases, and in all cases a defendant or defendants shall have the same rights as to proceedings therein as he or they would have if prosecuted for the same offense upon indictment.

SEC. 4. That the provisions of the criminal code in relation to indictments, and all other provisions of law applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials and punishments, or the execution of any sentence, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall in the same manner and to the same extent, as near as may be, apply to informations and all prosecutions and proceedings thereon.

SEC. 5. Any person who may according to law be committed to jail, or become recognized or held to bail with sureties for his appearance in court to answer to any indictment may, in like manner, so be committed to jail or become recognized and held to bail for his appearance to answer to any information or indictment, as the case may be.

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

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examination, the court shall not be satisfied with said statement, the district attorney shall be directed by the court to file the proper information and bring the case to trial.

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

SEC. 8. No information shall be filed against any person for any offense until such person shall have had a preliminary examination therefor, as provided by law, before a justice of the peace, or other examining magistrate or officer, unless such person shall waive his right to such examination: *Provided, however,* That information may be filed without such examination against fugitives from justice, and any fugitive from justice against whom an information shall be filed may be demanded by the Governor of this State of the executive authority of any other State or Territory, or of any foreign government, in the same manner, and the same proceedings may be had thereon as provided by law in like cases of demand upon indictment filed.

Approved March 13, 1891.

SCHOOL DISTRICT FUNDS.

AN ACT

CONCERNING THE INVESTMENT OF SCHOOL DISTRICT FUNDS.

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

SECTION 1. Whenever there shall have accumulated in the hands of the treasurer of any school district in the State moneys belonging to said school district to an amount in excess of the amount which, in the opinion of the school district board of said district, shall be necessary for the necessary current expenses of maintaining the schools in said district, the same shall be invested by said board in United States bonds, State bonds, State warrants or county warrants when the market value thereof is not below par. And said board shall deposit said securities in some safe deposit, and they shall there be kept until it shall become

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necessary to convert the same into money for school district purposes, to be determined by said board.

Approved March 13, 1891.

WORLD'S COLUMBIAN EXPOSITION.

AN ACT

CREATING A COMMISSIONER FOR THE "WORLD'S COLUMBIAN EXPOSITION," DEFINING HIS DUTIES AND POWERS, AND APPROPRIATING MONEY TO SECURE A PROPER EXHIBIT FOR IDAHO AND ITS CITIZENS AT SUCH EXPOSITION.

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

SECTION 1. The State of Idaho, together with its citizens, shall be exhibitors at the World's Columbian Exposition, to be held in the city of Chicago, and State of Illinois, during the year eighteen hundred and ninety-three (1893.)

SEC. 2. There shall be a commissioner, to be known as the Columbian commissioner for Idaho, who shall have power to employ as many assistants as he deems necessary. He shall be appointed by the Governor, with due regard to his familiarity with the resources and products of the State, his business experience and executive skill. He shall be a resident of this State. He shall hold his office until January first, A. D. eighteen hundred and ninety-four (1894), unless sooner removed for cause by the Governor, and, if so removed, or in case of his death, or inability, or refusal to act, his successor shall be appointed by the Governor. He shall take the oath of office prescribed by the Constitution for State officers.

SEC. 3. Said commissioner shall, immediately upon qualifying for his office, commence preparing exhibits for the World's Columbian Exposition of eighteen hundred and ninety-three. He shall have charge of, and be responsible for, all articles donated, purchased or otherwise acquired by the State for said exposition.

SEC. 4. Said commissioner shall have power to make such arrangements for space as it may seem necessary, and to prepare the same for the proper display of articles for exhibits at such exposition. If he shall deem it advisable so to do he shall have the power, and he is hereby authorized, to erect on the site of the world's fair at Chicago a

building, suitable for the purpose, to be known as the "Idaho building," at a cost not to exceed eight thousand dollars. In the construction of the same he shall cause to be made as full and complete a display as possible of the various materials and products of this State; and if he shall deem it advisable and for the best interests of the State to unite with an adjoining State or States in the erection of said building, he may do so.

SEC. 5. After the close of said exposition the said commissioner, or, in case his term of office has expired, then the Governor, Secretary of State and Attorney-General, shall have power to sell such building or buildings, together with all articles, products, minerals, etc., owned by the State, comprising the collection displayed at the said exposition, or any interest that the State may have in such building or buildings, to the best advantage of the State, and shall deposit the net proceeds in the general fund of the State treasury; and all articles loaned by private individuals shall be returned at the expense of the State to the owners thereof, or held subject to their orders.

SEC. 6. All counties, districts or individuals desiring to send articles, products, minerals, or precious metals to said exposition may do so by having the same delivered in good order for shipment at such places as the said commissioner may direct, where the same shall be received by said commissioner and carefully stored until the proper time for shipment to such exposition; and said commissioner shall forward all such articles as he may deem worthy of exhibition to Chicago; the freight or express charges to and from Chicago shall be paid by the commissioner out of the fund hereinafter appropriated.

SEC. 7. It shall be the duty of said commissioner to send as many articles for exposition as possible, and he shall give his personal attention to the making of an attractive and creditable exhibition of the products of the State.

SEC. 8. Said commissioner may issue certificates of indebtedness, with sworn vouchers attached thereto. All such certificates shall be presented to the State board of examiners, and, if approved by them, the State Auditor shall issue warrants on the treasury of the State for the same, provided that the certificates and warrants so drawn shall in no case exceed the amount hereinafter appropriated. The commissioner shall receive no compensation

except expenses actually and necessarily incurred and paid by him during the time given by him to the duties of his office. All expenses shall be paid out of the funds hereby appropriated.

SEC. 9. The sum of twenty thousand dollars (\$20,000), or so much thereof as may be necessary, is hereby appropriated out of any funds in the State treasury in the year 1892 for the purpose of defraying the expenses of every nature connected with the display of the resources of Idaho at the World's Columbian Exposition in eighteen hundred and ninety-three (1893), for the expenses of the commissioner, and for the purpose of carrying into effect the provisions of this act: *Provided*, That none of said (\$20,000) twenty thousand dollars shall be expended until the year 1892.

Approved March 13, 1891.

JUDICIAL DISTRICT.

AN ACT

TO RE-ESTABLISH THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO.

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

SECTION 1. The Counties of Alta, Lincoln, Cassia, Custer and Elmore shall constitute and comprise the fourth judicial district of this State.

SEC. 2. The district judge of the fourth judicial district of this State shall, within twenty days after the passage of this act, appoint terms of the district court, as provided by law, for the several counties in said district.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. An emergency existing therefor, this act shall take effect immediately.

Approved March 13, 1891.

COUNTY COMMISSIONERS AND HIGHWAY OFFICERS.

AN ACT

RELATING TO THE POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS AND HIGHWAY OFFICERS OVER HIGHWAYS; AMENDING SECTIONS EIGHT HUNDRED AND SEVENTY, EIGHT HUNDRED AND SEVENTY-THREE, EIGHT HUNDRED AND EIGHTY-SIX, NINE HUNDRED AND FIVE, NINE HUNDRED AND SEVEN, NINE HUNDRED AND EIGHT, NINE HUNDRED AND TWENTY-SEVEN, NINE HUNDRED AND TWENTY-NINE, NINE HUNDRED AND THIRTY-ONE, NINE HUNDRED AND FORTY-FIVE, NINE HUNDRED AND FORTY-SIX, NINE HUNDRED AND FORTY-NINE, NINE HUNDRED AND SEVENTY-FIVE AND TEN HUNDRED AND TWENTY-EIGHT, OF THE REVISED STATUTES OF THE STATE OF IDAHO, AND REPEALING SECTION NINE HUNDRED AND FORTY-EIGHT OF SAID STATUTES.

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

SECTION 1. That section eight hundred and seventy of the Revised Statutes be amended so as to read:

The board of commissioners, by proper ordinances, must:

FIRST.—Divide the county into a suitable and convenient number of road districts and appoint therefor annually, or whenever vacancies occur, overseers, with power to remove them at pleasure.

SECOND.—Cause to be surveyed, viewed, laid out, recorded, opened, and worked such highways as are necessary for public convenience, as in this chapter provided.

THIRD.—Cause to be recorded as highways such roads as have become such by usage or abandonment to the public.

FOURTH.—Abolish or abandon such as are unnecessary.

FIFTH.—Contract, agree for, purchase or otherwise acquire the right of way over private property for the use of public highways, and for that purpose institute, or require the district attorney to institute, proceedings under the code of civil procedure, and to pay therefor from the road fund of the county.

SIXTH.—Let out, by contract the improvement of highways and the construction and repair of bridges or other adjuncts to highways, when the amount of work to be done by contract exceeds one hundred dollars: *Provided*, That at least twenty-five per cent. of the funds collected in

any road district, ~~lib must be exp~~ must be expended in the district in which said funds have been collected.

SEVENTH.—Levy a property road tax.

EIGHTH.—Order and direct overseers specially in regard to work to be done on particular roads in their district.

NINTH.—Cause to be erected and maintained, on the highways they may designate, guide posts, properly inscribed.

TENTH.—Cause the road tax collected each year to be paid into the road fund and kept by the treasurer in a separate fund.

ELEVENTH.—Audit and draw warrants on the road fund of the county required to pay for right of way or improvements thereon.

SEC. 2. That section eight hundred and seventy-three be amended so as to read:

Road overseers, under the direction and supervision and pursuant to orders of the board of commissioners appointing them, must:

FIRST.—Take charge of the public highways within their respective districts.

SECOND.—Keep them clear from obstructions and in good repair.

THIRD.—Cause banks to be graded, bridges and causeways to be made where necessary, keep the same in good repair, and renew them when destroyed.

FOURTH.—Give two days' notice to the inhabitants of his road district liable to do work on roads, when, where, with what implements, and under whose direction to work, and superintend the same.

FIFTH.—Collect, from each inhabitant notified to work and who fails to work or prefers to pay it, the commutation fee.

SIXTH.—Make semi-annual reports of all labor performed in his district to the board of commissioners, under oath.

SEVENTH.—Receive and present petitions for new roads, recommend or disapprove the same, and assist in laying them out.

EIGHTH.—Collect all road poll taxes in the mode provided for the collection of other poll taxes, and faithfully account for and pay over the same.

NINTH.—Receive for his services, from money in the treasurer's hands belonging to the road fund, the sum of not less than two dollars and fifty cents, and not more than four dollars, for each day's service performed by him, to

be fixed by the board of commissioners, annually, at their regular meeting in January, to be audited and ordered paid by the board of commissioners.

SEC. 3. That section eight hundred and eighty-six be amended so as to read:

The annual property tax for road purposes must be levied by the board of commissioners at their session when the tax is by them levied for county purposes, and must not be less than ten, or exceed sixty cents on each one hundred dollars in value of taxable property. This property road tax, when levied, must be annually assessed and collected by the same officers and in the same manner as other State and county taxes are levied, assessed and collected, and turned over to the county treasurer, for the use of the road fund.

SEC. 4. That section nine hundred and five be amended so as to read: Every overseer must make to the commissioners semi-annually a written account, under oath, containing:

FIRST.—The names of all persons assessed to work in his district.

SECOND.—The names of all who have actually worked, and the number of days.

THIRD.—The names of all who have commuted, and the amount received from them.

FOURTH.—The names of all delinquents, and the amount collected from them.

FIFTH.—A full return by items of the amount of labor performed at each separate point, and the manner in which, and the time when, the same was done.

SIXTH.—The number of road poll tax receipts sold, and those returned unsold.

SEVENTH.—An accurate account of every day he himself was employed, and the nature and items of the service rendered.

SEC. 5. That section nine hundred and seven be amended so as to read: The road overseers must accompany their reports with all moneys remaining in their hands at the date of the report; in addition to the reports required of road overseers in article five of this chapter, each road overseer shall, on the first Monday of each month, report to the auditor of his county all moneys that may have come into his hands as such road overseer during the preceding month, stating therein, particularly, the

source from which the same was derived. Upon receiving such report the auditor shall certify to the treasurer the amount due from such road overseer and to what fund or funds the same may belong. Within five days the road overseer making such report shall pay over to the county treasurer the whole amount specified in his report for the preceding month. The treasurer shall then make and file with the auditor a receipt for the amount paid, and the auditor shall give to the road overseer a release for the amount and charge the treasurer with the same.

SEC. 6. That section nine hundred and eight be amended so as to read: A failure to make a report as required, or to pay over according to law, or on the order of the commissioners, any moneys in his hands subjects the overseer to a penalty of \$25, to be recovered in an action on his bond, together with any balance due from him; suit therefor may be instituted by the district attorney under order of the board of commissioners.

SEC. 7. That section nine hundred and twenty-seven be amended so as to read: The viewers must be paid three dollars each per day for their services out of the road fund, and the surveyors, for services in running out and mapping the road and making the plat and field notes, which must be filed when required before he receives his compensation, five dollars per day.

SEC. 8. That section nine hundred and twenty-nine be amended so as to read: If the board approve the report, and there are no non-consenting land owners, the road must, by order, be declared a public highway, and the road overseer ordered to open the same to the public. If there are non-consenting land owners, the board must appropriate from the road fund, and cause the road overseer to tender to such non-consenting land owners, the award of damages made by the board. If the awards are all accepted the roads must be declared a public highway and be opened as before provided.

SEC. 9. That section nine hundred and thirty-one be amended so as to read: All awards by agreement, ascertainment by the board or by the proper court, must be paid out of the road fund on the order of the board of commissioners.

SEC. 10. Section nine hundred and forty-five be amended so as to read: All public bridges, not otherwise specially provided for, are maintained by the county at large in the

same manner as highways and under the management and control of the road overseer and board of commissioners, the expense of constructing, maintaining, and repairing the same being primarily payable out of the road fund in the hand of the county treasurer, and from road poll taxes.

SEC. 11. That section nine hundred and forty-six be amended so as to read: Whenever it appears to the board of commissioners that the road fund is or would be unreasonably burdened by the expense of construction and maintenance and repair of any bridge or road they may, in their discretion, cause a portion of the aggregate cost or expense to be paid out of the general fund of the county, and they may levy a special tax, not exceeding one-fourth of one per cent., on the taxable property of the county, annually, until the amount appropriated in aid is raised and paid.

SEC. 12. That section nine hundred and forty-nine be amended so as to read: If the road overseer of any road district, chargeable with the repair of a bridge, fails to make the needed repairs after being informed that a bridge is impassable or unsafe, and is requested to make the same by two or more tax payers of the district in which it is situated, or the two districts which it unites, the tax payers may represent the facts to the board of commissioners, who, upon being satisfied that the bridge is unsafe, must cause the same to be repaired and must pay therefor from the road fund.

SEC. 13. That section nine hundred and seventy-five be amended so as to read: All penalties or forfeitures given in this chapter, and not otherwise provided for, must be recovered by the road overseers of the respective road districts and be paid into the road fund; all moneys in the hands of the county treasurer to the credit of the various road district funds at the time this act shall take effect shall be by the treasurer transferred to the road fund of his county, and all outstanding warrants drawn against the various road district funds, at the time this act takes effect shall be paid out of the road fund of the county in the order of their registration.

SEC. 14. That section ten hundred and twenty-eight be amended so as to read: When the road company desires the exclusive use of lands forming part of the highway, and such use is granted by the county commissioners, the damages received therefor are to be paid to the road fund of the county in which the same is situated.

SEC. 15. That section nine hundred and forty-eight be, and the same is hereby, repealed.

SEC. 16. An emergency existing therefor, this act shall take effect and be in force immediately after its passage.

Approved March 13, 1891

APPORTIONMENT.

AN ACT

PROVIDING FOR THE APPORTIONMENT OF THE LEGISLATURE.

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

SECTION 1. The apportionment of the two houses of the legislature is as follows:

The first senatorial district consists of the County of Kootenai, and shall elect one senator.

The second of the County of Shoshone, and shall elect two senators.

The third, of the Counties of Nez Perce and Idaho, and shall elect one senator.

The fourth, of the Counties of Nez Perce and Latah, and shall elect one senator.

The fifth, of the County of Latah, and shall elect one senator.

The sixth, of the County of Washington, and shall elect one senator.

The seventh, of the County of Boise, and shall elect one senator.

The eighth, of the County of Ada, and shall elect two senators.

The ninth, of the Counties of Elmore and Lincoln, and shall elect one senator.

The tenth, of the County of Alta, and shall elect one senator.

The eleventh, of the Counties of Alta and Custer, and shall elect one senator.

The twelfth, of the County of Bingham, and shall elect one senator.

The thirteenth, of the Counties of Bingham and Lemhi, and shall elect one senator.

The fourteenth, of the Counties of Bear Lake, Oneida and Bingham, and shall elect one senator.

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The fifteenth, of the Counties of Cassia and Owyhee, and shall elect one senator.

The sixteenth, of the Counties of Custer and Idaho, and shall elect one senator.

The several counties shall elect members of the house of representatives as follows:

The County of Ada, four members.

The County of Boise, two members.

The County of Washington, two members.

The County of Nez Perce, one member.

The County of Idaho, one member.

The County of Latah, four members.

The County of Kootenai, two members.

The County of Shoshone, four members.

The Counties of Idaho and Nez Perce, one member.

The County of Lemhi, one member.

The County of Custer, one member.

The County of Alta, two members.

The County of Lincoln, one member.

The County of Elmore, one member.

The County of Owyhee, one member.

The County of Cassia, one member.

The County of Oneida, one member.

The County of Bear Lake, one member.

The County of Bingham, three members.

The Counties of Elmore and Owyhee, one member.

The Counties of Alta and Custer, one member.

The Counties of Lemhi and Bingham, one member.

Approved March 13, 1891.

ARBOR CULTURE.

AN ACT

TO ENCOURAGE ARBOR CULTURE.

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

SECTION 1. The Friday following the first day of May in each year shall hereafter be known throughout this State as arbor day.

SEC. 2. It shall be the duty of the authorities of every public school in this State to assemble the scholars in their charge on that day in the school building, or elsewhere, as

they may deem proper, and to provide for and conduct, under the general supervision of the county superintendents of public instruction, such exercise as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results.

SEC. 3. The State Superintendent of Public Instruction shall have power to prescribe, from time to time, in writing, a course of exercises and instructions in the subjects hereinbefore mentioned, which shall be adopted and observed by the school authorities on arbor day, and upon receipt of copies of such course, sufficient in number to supply all the schools under their supervision, the county superintendent of public instruction aforesaid shall promptly provide each of the schools under his charge with a copy and cause it to be adopted and observed.

SEC. 4. This act shall take effect and be in force from and after its passage and approval, an emergency existing therefor.

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

Approved March 13, 1891.

STATE LIBRARY. AN ACT

TO PROVIDE FOR THE CARE, MANAGEMENT AND MAINTENANCE
OF THE STATE LIBRARY.

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

SECTION 1. The justices of the supreme court of this State shall have the control and management of the State library, and shall make such rules and regulations respecting the same as they deem best.

SEC. 2. They shall appoint a librarian at a salary not to exceed six hundred dollars (\$600) per year.

SEC. 3. The said justices shall have the management of all funds belonging to or appropriated for the use of the State library, and expend and disburse the same for the benefit thereof, as in their judgment may be best; and upon demand of said justices, or any two of them, the State Auditor shall draw his warrants upon the State treasurer

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for such sum or sums as there may be in the treasurer's hands belonging to or appropriated for the use of said library.

SEC. 4. The librarian of the State library shall give a bond, with sufficient sureties, to be approved by one or more of the justices of the supreme court, in the sum of two thousand dollars (\$2,000), conditioned for the faithful performance of his duties and the preservation of the books in said library. He shall have charge of and is authorized to sell the volumes of the supreme court reports now in the possession of the State, and shall monthly turn over to the State Treasurer all moneys received from sales thereof, and such moneys shall be placed in the State library fund.

SEC. 5. Any person may have access to and may use the books in said library, under such restrictions as the justices of the supreme court may prescribe. Any person who shall violate any rule established for the management of said library may be denied the privileges of said library. Any person who shall wantonly mutilate or destroy any book or any article of furniture, or any pamphlet or paper belonging to said library, shall be deemed guilty of a misdemeanor, and be punished accordingly. Any person who fails to return to the library any book taken therefrom by him, within the time prescribed by the rules of said library, shall be liable to the librarian in three times its value, to be recovered in a civil action; and if such person be an officer or employee of the State, the same shall be withheld from his pay.

SEC. 6. The State library shall be kept in the capitol building, and the justices of the supreme court shall cause the same to be fully insured against loss or destruction by fire.

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

SEC. 8. Whereas an emergency exists therefor, this act shall take effect immediately.

Approved March 13, 1891.

GOVERNOR—DUTIES.

AN ACT

TO AMEND SECTION ONE HUNDRED AND EIGHTY OF THE REVISED STATUTES, DEFINING THE DUTIES OF THE GOVERNOR.

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

SECTION 1. That section one hundred and eighty of the Revised Statutes be amended so as to read as follows:

Section 180. In addition to those prescribed by the Constitution, the Governor has the power and may perform the duties prescribed in this and the following sections:

FIRST.—To supervise the official conduct of all executive and ministerial officers.

SECOND.—To see that all offices are filled and the duties thereof performed, or, in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session.

THIRD.—To make the appointments and supply the vacancies provided by law.

FOURTH.—He is the sole official organ of communication between the government of this State and the government of any other State or Territory, or of the United States.

FIFTH.—Whenever any suit or legal proceeding is pending in this State, or which may affect the title of this State to any property, or which may result in any claim against the State, he may direct the Attorney-General to appear on behalf of the State.

SIXTH.—He may require the Attorney-General or district attorney of any district to inquire into the affairs or management of any corporation existing under the laws of this State.

SEVENTH.—He may require the Attorney-General to aid any district attorney in the discharge of his duties.

EIGHTH.—He may offer rewards not exceeding one thousand dollars each, payable out of the State treasury, for the apprehension of any convict who has escaped from the State prison, or of any person who has committed or is charged with the commission of an offense punishable with death; and also offer like rewards, not exceeding five hundred dollars each, in cases of felony where the punishment for the offense is not punishable with death.

NINTH.—To perform such duties respecting fugitives from justice as are prescribed by the penal code.

TENTH.—To issue and transmit election proclamations as prescribed by law.

ELEVENTH.—He may require any officer to make special reports to him in writing on demand.

TWELFTH.—He has such other powers and may perform such other duties as are devolved upon him by any law of this State.

SEC. 2. Whereas there is an emergency, this act shall take effect and be in force from and after its passage.

Approved March 13, 1891.

COUNTIES—REFUNDING INDEBTEDNESS.

AN ACT

TO AMEND SECTION 3602, OF CHAPTER VI, OF TITLE XIII, OF THE REVISED STATUTES, RELATING TO THE REFUNDING OF THE BONDED INDEBTEDNESS OF COUNTIES.

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

SECTION 1. That section thirty-six hundred and two, of chapter six, of title thirteen, of the Revised Statutes, be amended so as to read as follows:

Section 3602. The board of county commissioners of any county may issue negotiable coupon bonds of their county for the purpose of paying, redeeming, funding or refunding the principal and interest of any of the following indebtedness of their county, when the same can be done to the profit and benefit of the county.

FIRST.—Any indebtedness contracted prior to July 30, A. D. 1886.

SECOND.—Any indebtedness contracted subsequent to July 30, A. D. 1886; and all bonds issued under the provisions of this act must show on their face for which of the foregoing classes of indebtedness they are issued. The board of county commissioners of the county may refund the said indebtedness at a rate of interest not to exceed seven per cent. per annum.

Said bonds shall be issued, as near as practicable, in denominations of one thousand dollars each, but bonds of the denominations of five hundred and one hundred dollars may be issued when necessary. Said bonds must be issued at a rate not to exceed seven per cent. per annum, to be paid on the first day of January and the first day of July in each year, at the office of the county treasurer, or at such bank in the city of New York as may be designated by the board of county commissioners, at the option of the holder thereof; such bonds to be redeemed by the county in the following manner:

Ten per cent. of the total amount issued to be paid in ten years from the date of issue, and ten per cent. annually thereafter until all of said bonds are paid, making the last bonds redeemable twenty years from the date of issue. But said bonds, or any part thereof, may, at the option of the county issuing the same, be redeemed at any time after five years from the date of their issue: *Provided, Such*

time and option be stated upon the face of each bond, and each bond must be redeemed in the order it is numbered.

Approved March 13, 1891.

TOWNSITES.

AN ACT

TO AMEND SECTION TWO THOUSAND TWO HUNDRED AND FOURTEEN OF THE REVISED STATUTES, RELATING TO THE DISPOSAL OF TOWNSITES ENTERED UNDER THE LAWS OF THE UNITED STATES.

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

SECTION 1. That section two thousand two hundred and fourteen of the Revised Statutes is amended to read as follows:

Section 2214. The successor in office of any judge, mayor or other officer who entered lands under said laws of the United States, or who was trustee for the execution of the trust in that behalf, whether such officer or trustee acted under this title, or under any other general law, or any local or special act, relating to any city or incorporated town, shall succeed to the trust and shall have authority to execute the same as fully as his predecessor, the original trustee, might have done while in office; and when no mayor's or other trustee's deed of any block, lot, share or parcel of any such townsite has been lost or cannot be found and there is no record thereof in the office of the county recorder, such successor, upon application to him in writing, duly verified, showing that no mayor's or other trustee's deed can be found to the part or parcel of such townsite described in the application, and that no such deed thereto is of record in the office of the recorder of the county, and that the applicant, his ancestor, predecessor or grantor has been in the quiet, peaceable and undisturbed possession of said premises under claim of title for the full period of five years next before the application, must, by good and sufficient conveyance, grant and convey the title of the premises described in the application to the applicant, which conveyance must be executed and acknowledged, and shall take and have effect as provided by section two thousand two hundred and one, for which,

and the acknowledgment thereof, the trustee shall be entitled to receive a fee of five dollars from the applicant: *Provided*, That in every such application for deed under the provisions of this section an adverse claim to such parcel of said townsite shall be made to such mayor for the same, the mayor in every such case shall remit the parties claiming deeds to the same to a court of competent jurisdiction to settle the same, and when so determined, then the said mayor shall execute such deed to the prevailing party.

SEC. 2. Such conveyances being necessary in many instances to enable owners to make a perfect record to title to purchasers, an emergency exists, and this act shall take effect upon its passage.

Approved March 13, 1891.

PENITENTIARY—AMENDATORY ACT.

AN ACT

AMENDATORY OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE MAINTENANCE OF THE PENITENTIARY AND FOR THE CARE AND CUSTODY OF STATE PRISONERS," APPROVED FEBRUARY 3, 1891.

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

SECTION 1. That section 19 of an act to provided for the maintenance of the penitentiary and for the care and custody of State prisoners be amended to read as follows:

Section 19. All articles of food, clothing, bedding, fuel and all supplies that may be necessary for the use of the prison must be contracted for in the following manner:

The warden shall, quarterly, during the first weeks of February, May, August and November of each year make an estimate of the articles and supplies necessary for the use of the prison for the next succeeding three months, and, after submitting same for the approval of the board of commissioners, he shall proceed to advertise for bids in some newspaper of general circulation in Boise City, for the term of one week.

Public notice shall be given when the bids are to be opened and examined, and all bidders shall be allowed to be present at the opening of such bids.

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The board may reject any and all bids, and no more than the market price must be paid for any article purchased for the prison. All contracts awarded must be to the lowest bidder, upon his giving satisfactory security for the faithful performance of his contract.

The warden shall cause to be kept a regular and correct account of all moneys received by him from every source by virtue of his office, including all moneys taken from convicts or received from proceeds of property taken from them, and of all moneys paid by him, and the person to whom and the person for whom the same were paid; and shall make out and deliver to the board quarterly a statement, duly verified, of all moneys received and paid by him on account of the penitentiary, specifying from whom and to whom made, and on what account, and the balance remaining in his hands at the time of rendering said account.

Approved March 13, 1891.

INSANE ASYLUM—DEFICIENCY APPROPRIATION.

AN ACT

PROVIDING APPROPRIATIONS FOR THE PAYMENT OF CERTAIN LABOR PERFORMED AND MATERIALS FURNISHED ON THE INSANE ASYLUM.

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

SECTION 1. That the sum of twenty-six hundred and fifty dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of the general fund of the treasury for the payment of certain extra labor performed and materials furnished on the insane asylum.

SEC. 2. That four hundred and fifty dollars of said sum be paid to C. Bunting & Co., and the balance of said sum, to wit: The sum of twenty-two hundred dollars, shall be expended under direction of the State board of examiners, for the following purposes, to wit:

FIRST.—To pay certain mechanics mentioned in a certain deed of trust made by Francis C. Woods and Charles H. Woods, on the first day of March, 1886, to Wm. Houtz and H. W. Nichols.

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SECOND.—To pay pro rata the material men who furnished materials which went into the erection of the said insane asylum.

SEC. 3. Each person receiving any portion of this appropriation shall give a receipt in full of all demands to the State on account of labor performed or materials furnished for the erection of the insane asylum.

SEC. 4. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.
Approved March 14, 1891.

SALARIES OF STATE OFFICERS—PAYMENT OF.

AN ACT

TO FIX THE TIME FOR THE PAYMENT OF THE SALARIES OF ALL STATE AND DISTRICT OFFICERS WHOSE SALARIES ARE PAID OUT OF THE STATE TREASURY.

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

SECTION 1. The salaries of all State and district officers, whose salaries are paid from the State treasury, shall be paid quarterly, on the second Monday of January, April, July and October, of each year, out of any money in the treasury not otherwise appropriated.

Approved March 14, 1891.

WEIGHTS AND MEASURES.

AN ACT

TO ESTABLISH A UNIFORM STANDARD OF WEIGHTS AND MEASURES IN THIS STATE, AND TO PROVIDE FOR A STATE SEALER AND INSPECTOR OF THE SAME.

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

SECTION 1. That the standard of weights and measures in this State shall agree exactly with the standard as recognized and furnished by the United States, and shall, for the purpose of security and verification, be kept in the custody of the Secretary of State.

SEC. 2. The Secretary of State shall be *ex officio* State

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sealer of weights and measures, and shall have the care and custody of the authorized public standards of weights and measures. He shall try and prove by such standards all weights and measures, scales and beams which may belong to any county and be sent and brought to him for that purpose by the county sealer, and shall seal such, when found to be accurate, by stamping on them the letter "I" with a seal which he shall have and keep for that purpose.

SEC. 3. The county auditor of each county shall be the sealer of weights and measures for the county, and shall have the care and custody of the county standards. He shall procure at the expense of the county, when not already provided, a full set of weights and measures, scales and beams, which he shall cause to be tried, proved and sealed by the State standards, under the direction of the Secretary of State.

SEC. 4. The Secretary of State shall authorize and instruct the county auditor of each and every county in this State in regard to testing and verifying weights and measures within said county, and shall furnish said county auditor with a copy of this act, and the county auditor shall immediately post in his office due notice of his authority and readiness to act as inspector and sealer of weights and measures, and shall advertise the same in two papers in said county for the month of January in each year: *Provided, however,* That in counties where no newspapers are published, that notices shall be posted in five public places.

SEC. 5. The several county sealers shall try and prove all weights and measures, scales and beams within their respective counties twice in each year, and when the same are found or made to conform to the legal standards, they shall seal and mark such weights and measures with a seal to be kept by them for that purpose.

SEC. 6. The State and county sealers of weights and measures in this State shall charge for testing or sealing any beam or scale the sum of fifty cents, and for each and every weight or measure, ten cents; for sealing and marking liquid and dry measures, if the same be a gallon or more, ten cents; if less than a gallon, five cents. They shall also be entitled to a reasonable compensation for making such weights and measures conform to the standards established by this act.

SEC. 7. That the expense justly chargeable to any county in this State and incurred in and immediately connected with procuring county standards of weights and measures, and noticing and advertising the same in furtherance of the provisions and intentions of this act, shall, on presentation of proper and sufficient vouchers to the county commissioners, be accepted and paid by said county.

SEC. 8. That any person in this State who shall, after thirty days subsequent to published notice from the county sealers of weights and measures, as provided in section four of this act, be found using any false or fraudulent beam, scale, weight or measure, and who shall fail or neglect, on written notice of the same from any person aggrieved, or in any way cognizant thereof, to have said imperfect beam, scale, weight or measure duly inspected, and by proper authority adjusted and sealed, or who shall use the same scale, weight or measure subsequent to said notice without correction or adjustment, as provided in this act, any person so offending shall be liable to an action in law, and penalty of twenty dollars for each and every offense, to be paid into the county fund.

SEC. 9. That the Secretary of State and each and every county sealer of weights and measures in this State shall, before entering upon the performance of any official duties described or implied in this act, take and subscribe the following oath or affirmation: "I,, do swear (or affirm) that I will not seal or give any certificate of correctness for any scale, weight or measure but such as shall as nearly as possible agree with the standard in my keeping, as the standard of the State of Idaho and of the United States, and that I will, to the best of my ability, execute and discharge truly and faithfully the trusts imposed in me. So help me God." Which oath or affirmation shall be filed in the office of the Secretary of State.

SEC. 10. In the sale of fruits, vegetables and all other articles sold by heaped measure, one thousand two hundred and eighty-two (1,282) cubic inches shall constitute a half bushel.

SEC. 11. The hundred-weight shall consist of one hundred pounds, and twenty such hundred-weights shall constitute a ton.

SEC. 12. Whenever any of the following articles shall be contracted for or sold or delivered and no special-contract or agreement shall be made to the contrary, the

weight per bushel shall be as follows, to wit: Wheat, sixty pounds; clover seed, sixty pounds; rye or Indian corn, fifty-six pounds; oats, thirty-six pounds; barley, forty-eight pounds; buckwheat, forty-two pounds; dried apples or peaches, twenty-eight pounds; potatoes, sixty pounds; green apples or pears, forty-five pounds; flax, fifty-six pounds.

SEC. 13. Whoever, in buying any of the articles mentioned in the preceding section, shall take any greater number of pounds thereof to the bushel, or in selling any of said articles, shall give any less number of pounds thereof to the bushel, than is allowed by said section, with intent to gain advantage thereby, except when expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount of the property so wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction.

Approved March 14, 1891.

ALTURAS COUNTY—INDEBTEDNESS.

AN ACT

TO PROVIDE FOR A PROPER ADJUSTMENT AND APPORTIONMENT OF THE INDEBTEDNESS OF ALTURAS COUNTY.

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

SECTION 1. The county commissioners of each of the Counties of Alta, Lincoln, Elmore and Bingham shall, at their regular meeting in April, 1891, appoint one competent accountant from their respective counties, who shall meet at the town of Hailey on the first Monday in May, A. D. 1891, and who must take and subscribe to an oath to be filed in the office of the recorder of Alta County, which oath must be substantially in the following form, to wit: "I,, having been appointed as an accountant for County to assist in ascertaining, apportioning and determining the indebtedness of Alturas County, in accordance with an act of the legislature of the State of Idaho entitled "An act to provide for a proper adjustment and apportionment of the indebtedness of Alturas County," do solemnly swear that I will faithfully and impartially perform all the duties devolving upon me as such account-

ant, to the best of my ability and according to law, so help me God." Said accountants must then immediately proceed to audit and ascertain, from the proper books, papers and records of Alturas County, the total amount of indebtedness of Alturas County on the seventh day of February, A. D. 1889, including all the bonds of said county issued prior to said date, the rate of interest on said bonds, the amount of interest accrued and unpaid at said date; also the amount of cash in the treasury of said county at said date which was available for the payment of said bonds or the interest thereon; also the amount of floating indebtedness of said county; they must also audit and ascertain the amount of accrued interest on the outstanding warrants of said county up to said seventh day of February, 1889, and the amount of money in the treasury of said county at said date which was available for the payment of the said outstanding warrants, and interest thereon; they must also ascertain and determine, from the proper books and records of Alturas County, the amount of taxable property acquired by each of the Counties of Logan, Elmore and Bingham from Alturas County, as shown by the assessment roll of Alturas County for the year 1888. They must then proceed to ascertain and apportion to each of said Counties of Alta, Lincoln, Elmore and Bingham the amount of the floating debt of Alturas County at the date of the approval of the act creating and organizing the Counties of Elmore and Logan and defining the boundaries of Bingham and Alturas Counties, in the same ratio that the amount of taxable property acquired by each of said counties, as shown by said assessment roll, and as determined in the manner hereinbefore defined, bears to the total amount of taxable property assessed in said Alturas County for said year 1888.

They must apportion the relative amounts of interest on the bonded indebtedness of Alturas County for the years 1889 and 1890 in the same ratio that they are herein required to apportion the floating debt of said county, but they must deduct from the amount of interest to be so apportioned the amount of cash in the treasury of Alturas County on the seventh day of February, 1889, which was available for the payment of interest on any of the bonds of said county. After so ascertaining and determining the relative amounts of interest on bonds to be paid by each of said counties, they must deduct therefrom the amount

of money paid by any or either of said counties to the treasurer of Alturas County on account of interest on bonds of Alturas County, from the amount apportioned to the county so paying. They must also deduct from the amount apportioned to Elmore County one-half of the amount found due from Elmore County on account of the court house bonds of Alturas County.

SEC. 2. Said accountants must prepare four certificates, showing in full the result of their investigations and computations, as required in the preceding section, and present one of said certificates to each of the boards of county commissioners of the Counties of Alta, Elmore, Lincoln and Bingham, at the regular meetings of said boards in July, 1891; and said boards of county commissioners must thereupon immediately cause warrants of their respective counties to be drawn in favor of Alta County, and against the general fund of their respective counties, or, in case there shall be no general fund in any or either of said counties, then said warrants must be drawn against the fund out of which the current expenses of such county are paid, for an amount equal to the amount of interest on the bonds of Alturas County, found to be due and unpaid from such county for the year ending January first, 1890, which warrants must bear interest at seven per cent. per annum from February seventh, 1889, until redeemed. They must also cause warrants to be drawn as aforesaid for the amount of interest on said bonds found to be due and unpaid for the year ending January 1, 1891, which warrants must bear interest at seven per cent. per annum, from January first, 1890, until redeemed. They must also cause warrants to be drawn as aforesaid for the full amount of the floating indebtedness of Alturas County, apportioned to each of their respective counties, which warrants must bear interest at the rate of seven per cent. per annum from February seventh, 1889, until redeemed. The warrants herein provided for must be drawn in sums of not more than one thousand dollars each, must specify on their face for what purpose they are issued, and must be immediately registered by the treasurer of the proper county and delivered to the treasurer of Alta County, and paid as other county warrants are paid, in the order of their registration.

SEC. 3. The county commissioners of the said Counties of Lincoln, Elmore and Bingham must, at the time of mak-

ing their annual levy of taxes, make a proper and sufficient levy to provide the necessary funds for the prompt payment and redemption of the warrants hereinbefore provided for, in addition to the levy required for the ordinary expenses of their several counties.

SEC. 4. The treasurer of Alta County must apportion all funds arising from the proceeds of the warrants issued in payment of interest on bonds to a fund, to be called "Alturas County sinking fund," and pay out said funds only for the redemption of the interest coupons of Alturas County; and he must apportion to a fund, to be called "the redemption fund of Alta County," all funds received by him for warrants issued for payment of the floating debt of Alturas County, and pay the same out only for the redemption of the warrants of Alturas County.

SEC. 5. The county commissioners of Alta County shall have power to sell to the highest bidder, for cash, a sufficient amount of the warrants received for the payment of interest on bonds to provide for the payment of unpaid interest coupons of Alturas County for the years 1889 and 1890.

SEC. 6. At the time of making their regular tax levy the boards of county commissioners of Alta, Elmore and Lincoln Counties shall levy, in addition to the other taxes provided by law, a tax sufficient in amount to meet the interest upon the outstanding bonds of Alturas County issued prior to February 7th, 1889. The amount of said tax levy shall be ascertained and determined from the aggregate amount of the assessment rolls of said Counties of Alta, Lincoln and Elmore, for the preceding year; and shall, also, provide by levy of taxes for the payment of said bonds as the same shall mature, which tax must be collected in the manner provided by law for the collection of taxes; and all money which shall be collected from said levy must be apportioned by the county treasurer of each of said counties to a separate fund, to be called the "Alturas County sinking fund;" and the treasurers of the Counties of Lincoln and Elmore must, on or before the first day of January and July of each year, pay to the treasurer of Alta County, at his office in Hailey, all money in his hands apportioned to the credit of the Alturas County sinking fund, and said treasurer of Alta County must place said funds to the credit of the Alturas County sinking fund and pay the same out only for the redemp-

tion of the interest coupons of Alturas County as they shall fall due, and for the ultimate redemption of the bonds of Alturas County, when the same shall mature. The county commissioners of Bingham County must, at the time of making their levy of taxes for each year, levy a sufficient tax to provide funds to pay said county's proportion of the bonded debt and interest of Alturas County, as determined by the certificate of the accountants hereinbefore provided for, and the money arising from such tax must be apportioned to the Alturas County sinking fund and paid to the treasurer of Alta County, and by him paid out as in the case of Elmore and Lincoln Counties.

SEC. 7. The County of Alta must assume and pay all outstanding warrants of Alturas County, and the County of Lincoln must assume and pay all outstanding warrants of Logan County.

SEC. 8. The accountants provided for in this act must be allowed a reasonable compensation for their services, to be paid by the county from which they are respectively appointed.

SEC. 9. All the laws of Idaho applying to Alturas County, so far as the same are not inconsistent with this act, are hereby declared to be in full force and effect with reference to Alta County, and all the laws of Idaho applying to Logan County, so far as the same are not inconsistent with this act are hereby declared to be in full force and effect with reference to Lincoln County.

SEC. 10. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 11. Whereas an emergency exists, this act shall take effect and be in full force from and after its passage.

Approved March 14, 1891.

FUNDING STATE INDEBTEDNESS.

AN ACT

CONCERNING AND PROVIDING FOR THE FUNDING OF THE BONDED AND OTHER INDEBTEDNESS OF THE STATE OF IDAHO AT THE DATE OF ADMISSION.

WHEREAS, There is outstanding and will be due December 1st, 1891, bonds issued under the act of January 9. 1877, to the amount of.. \$46,715.06

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And interest thereon	4,671.51
Also one bond issued under the act of February 2, 1885, due December 1, 1892, for	5,000.00
And interest thereon for the years 1891 and 1892	600.00

Making a total of bond indebtedness with interest of \$56,986.57

And, whereas, it is necessary to make provision for the prompt payment thereof; and, whereas, the floating indebtedness of the Territory of Idaho represented partly in warrants and partly in unpaid bills at the date of admission amounted to the sum of seventy-six thousand dollars; and whereas, this amount of indebtedness is still unpaid, and bearing interest at the rate of ten per cent., it is manifestly expedient to fund this amount at as early a date as possible by issuing bonds of the State, bearing six per cent. interest.

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

SECTION 1. The State Treasurer, State Auditor and Governor shall be commissioners, who shall perform the duties specified in this act.

SEC. 2. Said commissioners shall, prior to the first day of May, 1891, prepare a form of bond, with coupons attached, and procure the same to be engraved or lithographed in a suitable manner, to be used in refunding the outstanding bonds and interest thereon that may become due prior to December 1, 1892; also, for funding the indebtedness and warrants of the Territory outstanding at the date of admission as a State, or so much thereof as remains unpaid May 1st, 1891.

SEC. 3. The bonded indebtedness of the Territory to be refunded under this act being the Territorial bonds falling due on December 1st, 1891, and on December 1st, 1892, amounting to the sum of fifty-one thousand seven hundred and fifteen dollars and six cents, and the interest thereon, being the sum of fifty-two hundred and seventy-one dollars and fifty-one cents. The floating and warrant indebtedness of the Territory to be funded under this act being the sum of seventy-six thousand dollars, or so much thereof as remains unpaid May 1st, 1891, and interest thereon, two thousand dollars, a total of one hundred and thirty four thousand nine hundred and eighty-six dollars and fifty-seven cents.

SEC. 4. Said bonds shall be in amount for one thousand dollars, and for fractional sums thereof, when necessary. The principal thereof shall be payable at the State treasury, in legal currency of the United States, on the first day of December, 1911, or at any time after December 1st, 1900, at the option of the State of Idaho. The interest thereon shall be paid at the same place, in legal currency, at the rate of six per cent. per annum, payable semi-annually, on the first days of June and December in each year, upon the presentation of the proper coupons thereof, which shall have been prepared and attached to said bonds: *Provided*, That said commissioners may refund said debts at a lower rate if found practicable.

SEC. 5. Said bonds shall be signed by the Governor and bear the great seal of the State, attested by the Secretary of State. Each bond shall, when executed, be registered by the Treasurer in a book, with its number, amount, in whose favor drawn and the date; and the fact and date of registration shall be indorsed by him on such bond.

SEC. 6. The commissioners, prior to [the] first day of July, 1891, are hereby authorized to negotiate and sell for cash, at not less than par, such a number of these bonds as will equal the sum of the floating and warrant indebtedness of the Territory at the date of admission as a State, as stated in section 3 of this act, or so much thereof as remains unpaid May 1st, 1891. The moneys to be derived from such sale to be paid to the State Treasurer, who shall certify to the State Auditor the amount so received. The Auditor shall make a record of same in his books, and authorize the State Treasurer to at once apply said moneys toward the payment of an equal amount of Territorial warrants, including interest thereon. The State Treasurer shall, without delay, make calls and payments, in the order of priority, as provided by law, and shall make a proper record in his books of the moneys received and how paid.

SEC. 7. The State Auditor shall, three months prior to the first day of December, 1891, notify each and every holder of the bonds of the Territory now outstanding, and to become due December 1, 1891; and within three months prior to the first day of December, 1892, notify each and every holder of the bonds of the Territory now outstanding and to become due, December 1, 1892, that he will, within the next sixty days, in exchange for the bonds so to become

due issue to such bondholder or holders new bonds bearing date the day of their delivery, payable at the State treasury on the first day of December, 1911, or at any time after December, 1, 1900, at the option of the State of Idaho, in legal currency of the United States, with interest, on the first days of June and December in each year, upon presentation and surrender of the proper coupons therefor, which said exchange shall be made dollar for dollar at the time of such exchange.

SEC. 8. It shall be the duty of the State Treasurer to keep a record of each bond issued, showing the date, amount and number, and the name of the person to whom issued, and also a record of each and every bond taken up in exchange, as above provided, showing the number and amount of said bond and the date of such exchange, and deposit duplicates of such records with the State Auditor.

SEC. 9. Upon the presentation and surrender of any bond to become due December 1, 1891, or December 1, 1892, for exchange, as provided for in this act, it shall be the duty of the State Treasurer to compute the amount of principal and interest at that time due on said bond and indorse the same on the back thereof; and after he shall have made a record thereof, the Treasurer shall deliver the same to the State Auditor, who shall indorse on the face of said bond the word "cancelled," together with the date of such cancellation, and file the same in his office; and thereupon the State Treasurer shall issue to the person so presenting and surrendering such bond a new bond of equal amount with the bond so surrendered, then due, and shall fill up and sign the coupons, as in this act provided, and shall, after procuring the signature of the Governor and the great seal of the State to be affixed thereon by the Secretary of State, cause the same to be recorded in the manner hereinbefore provided, and shall deliver the bond so executed to the persons entitled thereto.

SEC. 10. Two months prior to the time when any of the bonds mentioned in this act shall have become due, if there shall be any of said bonds still outstanding and not surrendered for exchange, as in this act provided, it shall be the duty of the commissioners, and they are hereby authorized, to negotiate and sell for cash, at not less than par, a sufficient amount of said new bonds, as authorized by this act, to redeem and pay the principal and interest of such old and outstanding and unexchanged bonds; and he shall pay the proceeds of said sales into the State treasury.

SEC. 11. In case the commissioners shall make such sale and negotiations in whole or in part, as in the preceding section provided, the State Auditor shall immediately notify the holder or holders of the outstanding and unsurrendered bonds that the State Treasurer will redeem said bonds at his office at the day when they are due, and that interest thereon will cease on said day.

SEC. 12. Upon presentation to the State Treasurer of any bond or bonds after its maturity, it shall be the duty of the State Treasurer to pay the same, with interest due thereon at the date of maturity; and said bond or bonds shall be cancelled and disposed of in a manner similar to that of bonds surrendered, as herein provided; and the treasurer shall, from the date of such payment, be chargeable with such bond or bonds to be accounted for by the proceeds of the sale of bonds as herein provided, or in a return to and cancellation of such bond or bonds by the auditor.

SEC. 13: For the prompt payment of the principal and interest of the bonds issued pursuant to the provisions of this act, there is hereby annually set apart and appropriated from the general fund of the State treasury an amount sufficient to pay promptly the semi-annual interest as it becomes due.

SEC. 14. For the defraying of all expenses and charges to carry into effect this act, the sum of two hundred dollars, or so much thereof as may be necessary, is hereby appropriated from the general fund.

SEC. 15. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved March 14, 1891.

STATE SEAL.

AN ACT

PROVIDING A GREAT SEAL FOR THE STATE OF IDAHO.

WHEREAS, in compliance with a concurrent resolution adopted by the legislature, a joint committee of both houses has devised and recommended a great seal for the State of Idaho, and submitted the same to the legislature for its approval, Therefore,

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

SECTION 1. That the design drawn and executed by Miss

Emma Edwards, of Boise City, and reported and recommended by the select joint committee to devise a great seal for the State with the Latin motto "Esto Perpetua," be adopted, and is hereby made the great seal of the State of Idaho.

Approved March 14, 1891.

MECHANICS' LIENS.

AN ACT

TO AMEND SECTIONS FIVE THOUSAND ONE HUNDRED AND THIRTY AND FIVE THOUSAND ONE HUNDRED AND THIRTY-ONE OF THE REVISED STATUTES, RELATING TO THE ENFORCEMENT OF LIENS OF MECHANICS AND OTHERS.

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

That section five thousand one hundred and thirty of the Revised Statutes is amended to read as follows:

Section 5130. Every original contractor, within sixty days after the completion of his contract, every sub-contractor or material man, laborers, or other person performing labor or furnishing materials for an original contractor, within thirty days after the completion of the contract of the original contractor, and every other person claiming the benefit of this title must, within thirty days after the completion of any building, improvement or structure, or after the completion of an alteration, addition to, or repair thereof, or the performance of any labor in a mining claim, file for record in the office of the county recorder of the county in which such property, or some part thereof, is situated, a claim containing a statement of his demand, after deducting all just credits and offsets, with the name of the owner or reputed owner, if known, and also the name of the person by whom he was employed, or to whom he furnished the materials, with a statement of the terms of his contract, and also a description of the property to be charged with the lien, sufficient for identification, which claim must be verified by the oath of himself or of some other person; any trivial imperfection in the work, or in the construction of any building, improvement or structure, or in the alteration, addition to, or repair thereof shall not be deemed such a lack of completion as to prevent the filing of any lien, or render the same premature; and in

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case of contracts, the occupation or use of the building, improvement, or structure by the owner or his representative, or the acceptance by said owner or his agent of such building, improvement or structure, shall be deemed conclusive evidence of completion; and cessation from labor for thirty days upon any unfinished contract, or upon any unfinished building, improvement or structure, or upon any alteration, addition or repair, shall be deemed equivalent to a completion thereof for all the purposes of this title. Laborers performing labor for which they may have a lien upon any property under the laws of this State, and who claim such lien under this chapter, shall be preferred in the enforcement of their liens, and their liens shall have priority to all other liens of every kind and character which may subsist upon such property, except judgment liens for demands existing prior to the date of the commencement of work for which such laborer's liens are claimed, and also except mortgages subsisting upon such property more than one year prior to commencement of the work for which such laborer's liens are claimed.

SEC. 2. That section five thousand one hundred and thirty-one of the Revised Statutes is amended to read as follows:

Section 5131. When one claim of lien is filed against two or more buildings owned by the same person, it must designate the amount due on each of said buildings; otherwise, the lien of such claim may be postponed to other several liens upon part of the property; and such lien does not extend beyond the amount designated, as against other creditors having liens by judgment, mortgage or otherwise upon either of such buildings, or upon the land upon which the same are situated.

SEC. 3. This act being purely remedial, and there being grave doubts as to the time within which mechanics and laborers must file their liens in many cases, an emergency exists and this act shall take effect upon its passage.

Approved March 14, 1891.

NATIONAL GUARDS.

AN ACT

FOR THE ORGANIZATION OF THE MILITIA OF THE STATE OF IDAHO.

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

SECTION 1. The militia of the State of Idaho shall con-

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sist of all able bodied male persons, residents of the State, between the ages of eighteen and forty-five years, excepting such persons as are now or may hereafter be exempted by the laws of this State or of the United States.

SEC. 2. The Governor of this State, as commander-in-chief of the militia, shall appoint such of the following named officers on his staff as in his discretion the growth of the Idaho national guard shall demand, viz: Adjutant-general, inspector-general, quartermaster-general, commissary-general of subsistence, a paymaster-general, judge advocate-general, surgeon-general, who shall be a practicing physician, and a mustering officer, each with the rank of colonel of cavalry, and six aides-de-camp, with the rank of lieutenant-colonel of cavalry. He may appoint such clerks as the adjutant-general may require, for the proper discharge of the duties appertaining to that office, and shall require the quartermaster-general, the paymaster-general and commissary-general of subsistence, each, to execute a bond in the penal sum of five thousand (\$5,000) dollars, conditioned upon their proper care and accounting for such public property and moneys as may be in their official charge.

SEC. 3. It shall be the duty of the adjutant-general to promulgate all orders from the commander-in-chief; to attend all musters when the commander-in-chief reviews the national guard, or any portion thereof; to obey all orders from him relative to carrying into execution, or perfecting, the system of military discipline established by law; to furnish blank forms of reports and returns and of all official papers that may be required, and to explain the principles upon which they should be made out; to receive from commanding officers throughout the State returns of the national guard under their command; to make the proper abstracts from such returns and lay the same before the Commander-in-chief annually, and to make annual returns of the militia of the State to the President of the United States; he is charged with all the correspondence of the commander-in chief on the subject of military affairs; he shall countersign all commissions signed by the commander-in-chief and record the same; he shall keep a record of all official correspondence in books prepared for that purpose; he shall be entitled to receive a compensation of five hundred dollars per annum, to be paid quarterly out of the military fund, in the same manner as other salaries of State officers are paid.

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SEC. 4. The inspector-general shall inspect, as often as may be deemed necessary by the commander-in-chief, every branch connected with the military service of the State, including the rifle practice, the transaction of company business, the condition of public property, armories, military storehouses and camps; and he shall report to the commander-in-chief, annually, on the first day of December, the condition, discipline and tactical instructions of the national guard, as well as all matters pertaining to his department.

SEC. 5. The quartermaster-general shall receive and be responsible for all arms, ammunition and ordnance stores and all clothing and equipage received by the State of Idaho; shall issue the same on requisitions properly approved by the commander-in-chief. He shall have charge of all armories and military storehouses, and shall keep them in repair to such extent as he may be furnished with funds for that purpose. The accounts of his department shall be kept in proper books and by the necessary blank forms, which shall be furnished by the adjutant-general's office. He shall render an annual report on the 1st day of December to the commander-in-chief, embracing the operations of his office for the year, and such recommendations as he may deem for the best interests of the service.

SEC. 6. The paymaster-general's office shall be the channel through which vouchers for military service, supplies and transportation shall be transmitted to the State Auditor. The paymaster-general shall countersign all such vouchers properly certified, citing the act of the legislature which appropriates the necessary funds, and transmit the same to the State board of examiners. He shall keep himself informed of the condition of the military fund, and to this end the State Treasurer is directed to furnish such information whenever requested by the paymaster-general. He shall pay the national guard when called into service, and shall keep his official accounts in proper books, to be furnished his office, on requisition, by the adjutant-general. He shall, annually, on the first day of December, and at such other times as may be indicated by the commander-in-chief, render to him an itemized account of all the operations of his office, embracing such recommendations as he may deem for the best interests of the service.

SEC. 7. The judge advocate-general is charged with the supervision, care and management of all matters relating

to the administration of justice among the military forces of the State, and shall, annually, on December 1st, make a report thereof to the commander-in-chief.

SEC. 8. The commissary-general of subsistence, surgeon-general and mustering officer shall perform the duties of their respective offices, subject to such rules and regulations as may be prescribed, and to such orders as may be issued by the commander-in-chief for their government and instruction; they shall also make, annually, on the first day of December, a report of the condition and operation of their offices to the commander-in-chief.

SEC. 9. Every commissioned officer of the Idaho national guard shall take the oath of office within ten days, and provide himself with a suitable uniform, arms and equipments within sixty days, from the date of his election or appointment, or he shall be deemed to have resigned his commission.

SEC. 10. Each regiment shall consist of not less than eight nor more than twelve companies, and shall have a colonel, lieutenant-colonel, a major, a surgeon, with the rank of major; an assistant surgeon, with the rank of captain; an adjutant and quartermaster, each with the rank of first lieutenant; a chaplain, with the rank of captain, and a non-commissioned staff, to consist of a sergeant-major, a quartermaster-sergeant, a commissary-sergeant, a hospital steward and two principal musicians. Every battalion of four companies shall have a major, with an adjutant and quartermaster detailed for these duties from the first lieutenants of the companies composing the battalion by the commander-in-chief, on recommendation of the major. A battalion of six companies shall have a lieutenant-colonel and a major, together with an adjutant and quartermaster, detailed from the first lieutenants of the companies composing the battalion by the commander-in-chief, on the recommendation of the lieutenant-colonel; a chaplain, a sergeant-major, quartermaster-sergeant, commissary-sergeant, and hospital steward. A battalion or a regiment shall have but one band, to consist of a drum-major, a leader, with the rank of sergeant-major, and as many musicians, who must be enlisted in the regiment or battalion, as the commanding officer may designate, not to exceed twenty.

SEC. 11. Regimental and battalion field officers shall be elected by the officers and enlisted men of the respective

regiments and battalions. Officers of the regimental and battalion staff shall be appointed and commissioned by the commander-in-chief, on the recommendation of the regimental or battalion commander. The non-commissioned staff shall be appointed by the regimental or battalion commander.

SEC. 12. Each company shall consist of a captain, a first lieutenant, second lieutenant, first sergeant, four sergeants, four corporals, at least two musicians, and not less than twenty-four nor more than eighty-three privates. The armory of each company shall be considered as post headquarters, and the commander of a company empowered to appoint an acting quartermaster, who must be a commissioned officer, and an acting quartermaster-sergeant, who must be enlisted in the company. Captains and lieutenants shall be elected by written or printed ballots, cast by the enlisted men of the respective companies. Company non-commissioned officers shall be appointed by the company commander, to serve as such during good behavior.

SEC. 13. It shall be the duty of the assessor of each county in the State, annually, at the time prescribed by law for assessing property, to make out a list of all persons in the respective counties who are liable to do military duty, under the laws of the United States and of the State of Idaho, which list shall designate the precinct in which each person named in such list resides, and shall be filed by such assessor in the office of the county auditor of the respective counties, at the same time and in the same manner as is provided by law for the assessment roll; and the auditor shall keep the same open for inspection, as is provided by law for the assessment roll, and also record the same alphabetically in his office in a book to be kept for that purpose.

SEC. 14. The said military assessment list shall be corrected in the same manner and at the same time as is provided by law for the assessment roll; and it shall be the duty of the county auditor of each county, within twenty days after the list has been corrected, to transmit to the adjutant-general of the State a certificate, under his official seal, of the total number of names on such military assessment list, arranged according to the several precincts of the county.

SEC. 15. All persons subject to military duty under the laws of the United States and of the State of Idaho, and

such other ~~male persons~~ as shall voluntarily enroll themselves, shall be divided into two classes, to wit: One consisting of those who enlist in the active militia of the State, under the provisions of this title, which shall be known as the Idaho national guard; the other to consist of all those subject to military duty, but not included in the active or enlisted militia; the latter class to be known as the Idaho reserve militia.

SEC. 16. The following named classes of persons are exempt from military duty:

FIRST.—All persons in the army or navy or volunteer forces of the United States, and those who have been honorably discharged therefrom.

SECOND.—All regularly ordained ministers of the gospel, and all practicing physicians.

THIRD.—Idiots, lunatics, paupers, habitual drunkards and persons convicted of infamous crimes, who have not been restored to citizenship.

SEC. 17. All enlistments in the Idaho national guard shall be for the term of three years. The term of service for officers of the line shall be three years; for officers of the staff, two years, or during the pleasure of the commander-in-chief.

SEC. 18. All enlistments in the Idaho national guard shall be made by signing the muster roll of the company and its regulations and by-laws; as soon as practicable after his enlistment, the following oath or affirmation shall be administered to the recruit by any commissioned officer:

"I, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Idaho; that I will serve them honestly and faithfully, and that I will obey the orders of the officers appointed over me, in accordance with the laws, and the rules and regulations for the government of the Idaho national guard."

SEC. 19. There may be expended, under the direction of the commander-in-chief, annually, in each county of the State, out of the general fund, but not to exceed one hundred dollars, and, in addition thereto, the county commissioners of each county may, in their discretion, expend, annually, not to exceed one hundred and fifty dollars out of the county current expense fund, for rent or purchase of armory buildings for the use of such companies of the Idaho national guard as organize under the provisions of

this title, and which shall meet at least once in each month in such armory for military instruction. At such meetings the commanding officer of such companies, or some suitable person detailed by him, shall drill the company not less than two hours in the school of the soldier, the manual of arms, and the movements of the company.

SEC. 20. The commander-in-chief may order courts-martial for the trial of officers and enlisted men at such times as the interest of the service may require. Courts of inquiry may be ordered by the commander-in-chief to examine into the nature of any transaction of, or accusation or charge against, any officer or soldier. Regimental and battalion courts-martial and courts of inquiry may be convened by order of commandants of regiments and battalions, approved by the commander-in-chief; garrison courts-martial shall be convened by order of the commandants of companies, approved by battalion commanders. All courts-martial and courts of inquiry shall be organized and governed, as near as may be, in conformity with the articles of war and the regulations established for the government of the United States army; and the proceedings, findings and sentences thereof shall be reviewed by the judge advocate-general, and shall be submitted by him to the commander-in-chief for his action.

SEC. 21. The president of a court-martial or court of inquiry may issue an order to enforce the attendance of witnesses, and punish a refusal to be sworn or to answer, in the same manner as is provided for a magistrate in civil actions.

SEC. 22. When fines assessed by courts-martial or courts of inquiry are not paid within thirty days after the sentences are approved, a list thereof and of the delinquents, certified by the judge advocate of such courts-martial or courts of inquiry, shall be placed in the hands of justices of the peace within the precincts in which the delinquents reside, who shall thereupon render judgment and proceed to collect the same, as in other civil actions.

SEC. 23. Honorable discharges of officers from service in the national guard of Idaho may be granted by the commander-in-chief upon expiration of the term of service, or in case of removal, on evidence being furnished him that the officer is not indebted to the State of Idaho and is not responsible for any public property. No enlisted man shall be discharged before the expiration of his term of service,

except by order of the commander-in-chief, and for the following reasons: To accept promotion by commission; upon removal of residence from the State, or permanent removal to such distance from the command to which he belongs, that, in the opinion of his commanding officer, he cannot perform his military duties; upon disability, established by the certificate of a medical officer, whenever, in the opinion of the commander-in-chief, the interests of the service demand such discharges. Dishonorable discharges of officers and enlisted men shall be published by the commander-in-chief in court-martial orders, in pursuance of sentence of court-martial or court of inquiry.

SEC. 24. Officers traveling on duty in compliance with orders from or approved by the commander-in-chief, shall be paid mileage at the same rates as are provided by law for the members of the State legislature.

SEC. 25. The officers and enlisted men of the Idaho national guard, when called into active service by proclamation of the commander-in-chief, shall receive the same rates of pay and subsistence as, and the uniform and equipments shall be identical with, those provided by the United States for the regular army.

SEC. 26. All officers and enlisted men of the Idaho national guard are hereby declared exempt from all poll or road tax and jury duty, so long as they continue active members thereof.

SEC. 27. The adjutant-general shall require proper bonds to be given by all officers who have military stores in their possession, with good and satisfactory sureties, conditioned on the safe keeping of public property and the faithful accounting for the same; said bonds to be approved by the commander-in-chief and filed in the office of the adjutant-general before any public property is turned over to applicants.

SEC. 28. It shall be the duty of the Governor of Idaho, as commander-in-chief, to formulate a system of regulations for the Idaho national guard, founded upon the militia law enacted in this title, which regulations shall have all the force and virtue of law, when promulgated by the adjutant-general.

SEC. 29. For the contingent expenses of the adjutant general's office, there is hereby appropriated the sum of two hundred and fifty-five dollars, annually, out of the general fund, or so much thereof as the adjutant-general

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may sign requisitions for. And the State Treasurer is hereby authorized and directed to pay the said requisitions upon a warrant therefor by the State Auditor upon bill approved by the State board of examiners.

SEC. 30. The commander-in-chief shall have power, in case of invasion, insurrection or other breaches of the peace, or imminent danger thereof, to order into the service of the State any of the companies or regiments of the Idaho national guard, or the reserve militia, that he may deem proper, and under the command of such officers as he may designate.

SEC. 31. The system of tactics and field exercises from time to time ordered for the army of the United States shall be the system of tactics and field exercises of the Idaho national guard.

SEC. 32. For the purpose of defraying the current expenses of the Idaho national guard and of arming and equipping the companies thereof as they are organized, there is hereby appropriated out of the general fund for the year 1891 the sum of \$2,100, and for the year 1892 the sum of \$2,200, or so much thereof as may be necessary.

SEC. 33. All payments from the military fund shall be made to the paymaster-general, in compliance with regular appropriations by due legislative action, upon vouchers approved by the commander-in-chief and countersigned by the adjutant-general, upon warrants drawn by the State Auditor, who shall cause a record of such vouchers to be kept in his office.

SEC. 34. It shall be the duty of the State Treasurer to prepare and submit to the Governor, in his annual report, and whenever the Governor shall require it, an account of the condition of the military fund, comprising the amounts placed to the credit of said fund and the several items of disbursement therefrom made during the said period, by due authority of law, arranged so as to show the balance of the said fund remaining unexpended at the close of each calendar year.

SEC. 35. The adjutant-general, the quartermaster-general and the paymaster-general are hereby constituted a board which shall meet at the State capitol shortly before the biennial sessions of the State legislature, or at the call of the commander-in-chief, to prepare an "estimate of the expenses of the militia establishment" for the ensuing two years. The board may have access to all accounts and

papers in the office of the State Treasurer bearing upon the subject of the receipt and disbursement of public funds for militia purposes, which "estimate" shall be submitted to the governor of the State for his consideration in time to be transmitted by him to the legislature.

SEC. 36. Unexpended balance remaining on the 31st day of December in each year to the credit of either the military fund, or the contingent fund of the adjutant-general's office, shall be turned over to the general fund of the State by the State Treasurer in opening his books of account for the new fiscal year.

SEC. 37. The commander-in-chief of the State militia may, when he deems it necessary for the good of the service, direct that an annual encampment be held at the time and place thereof to be designated in general order.

SEC. 38. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 39. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved March 14, 1891.

DEAF, DUMB AND BLIND.

AN ACT

TO PROVIDE FOR THE EDUCATION OF THE DEAF, DUMB AND BLIND.

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

SECTION 1. There is hereby appropriated, annually, the sum of three thousand dollars (\$3,000), or so much thereof as may be necessary, for the education of the deaf, dumb and blind of this State, under the direction of the State board of education, and the Treasurer shall pay the same on the warrant of the Auditor for that purpose.

SEC. 2. The said board of education shall enter into contract with some one of the adjacent States or Territories (having an institution for the education of the deaf and blind), for the education of the deaf, dumb and blind of the State of Idaho upon the most economical terms possible.

SEC. 3. It shall be the duty of the board of education to ascertain the number of deaf, dumb and blind in the

State, of school age and sound mind and body, whose parents are not able to provide for their education, and, as soon as practicable thereafter, take the necessary steps for their education as provided for in section 2 of this act.

SEC. 4. The State or Territory in which such institution for the education of the deaf, dumb and blind is located, as designated by the said board of education, shall be paid from the appropriation made in section 1 of this act, at the rate of not to exceed three hundred dollars a year for each scholar's instruction and board, including board during vacation, on the certificate of the State board of education to be furnished to the State Auditor.

SEC. 5. The State board of education is authorized to provide for the careful examination of all applicants for admission to the institution designated, and to audit and certify to the State Auditor all accounts for the expenses of designating said institution and conducting examinations, and all contingent expenses attending the same, and the accounts thereof shall be paid from the appropriation for this purpose made in section 1 of this act.

SEC. 6. This act shall take effect and be in force from and after its passage and approval, an emergency existing therefor.

Approved March 14, 1891.

STATE BOARD OF EQUALIZATION.

AN ACT

PROVIDING A STATE BOARD OF EQUALIZATION, AND DEFINING THE DUTIES AND POWERS THEREOF.

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

SECTION 1. As provided in section 12, article 7, of the Constitution, the Governor, Secretary of State, Attorney-General, State Auditor and State Treasurer shall constitute a State board of equalization.

SEC. 2. The board shall have power—

FIRST.—To prescribe rules for its own government and for the transaction of its business.

SECOND.—To prescribe rules and regulations not in conflict with other provisions of law, to govern county boards when equalizing and assessors when assessing.

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THIRD.—To call before it, or before any member thereof, any officers of the county, and to require them to produce any public records in their custody.

FOURTH.—To issue subpoenas for the attendance of witnesses or the production of books before the board or any member thereof. To raise or diminish the valuation of the several counties.

SEC. 3. The board shall meet at the State capitol on the first Monday in September in each year.

SEC. 4. The Governor shall be chairman, and the Auditor, by virtue of his office, shall be secretary. The Governor and Auditor, with any other member of the board, shall constitute a quorum for the transaction of business.

SEC. 5. The State Auditor, by virtue of his office, shall lay before the board the abstracts received by him from the county auditors, and the board shall proceed to equalize the valuation of real and personal property amongst the several counties and towns in the following manner:

FIRST.—They shall add to the aggregate valuation of real and personal property of each county which they believe to be valued below its proper valuation such percentage in each case as will raise the same to its proper valuation.

SECOND.—They shall deduct from the aggregate valuation of real and personal property of each county which they believe to be valued above its proper valuation such percentage in each case as will reduce the same to its proper valuation.

SEC. 6. Immediately after the assessment roll is completed, the county auditor shall make out an abstract thereof, containing the whole number of acres of land listed in the county, and the valuation thereof; the whole number of miles of railroad in the county, and the valuation thereof; the total valuation of town lots; the whole number of horses, and their valuation; the whole number of mules, and their valuation; the whole number of asses, and their valuation; the whole number of cattle, and their valuation; the whole number of sheep, and their valuation; the whole number of swine, and their valuation; the whole number of goats, and their valuation; the whole number of musical instruments, and their valuation; the whole number of clocks and watches, jewelry, gold and silver plate, which abstracts the auditor shall make out in duplicate and transmit one copy forthwith to the Auditor

of the State, and the State board of equalization is authorized to diminish or add to the above list, and to require such different or further matter to be returned as it may deem advisable. On or before the first day of October in each year the State Auditor shall transmit to the county auditors of each county a statement of the changes (if any) which have been made in the assessment.

Approved March 14, 1891.

AMENDMENTS TO CONSTITUTION.

AN ACT

TO PROVIDE THE MANNER OF PROPOSING AMENDMENTS TO THE CONSTITUTION AND SUBMITTING THE SAME TO THE ELECTORS OF THIS STATE, AND THEIR ENROLLMENT AND PRESERVATION.

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

SECTION 1. That amendments to the Constitution may be proposed by joint resolution in either house of the legislature of this State, and if the same shall be voted for by two-thirds of all the members of each of the two houses, voting separately, in the manner provided by section one (1), of article twenty (20), of the Constitution, the amendment or amendments proposed shall be submitted to the electors of this State for adoption or rejection in the manner provided by the election laws of the State.

SEC. 2. Whenever any amendments to the Constitution shall have been proposed to and adopted by the electors of this State, as by this act provided, the same shall be enrolled and numbered in the order of time in which they may be adopted, and preserved by the Secretary of State among the public records of his office.

Approved March 14, 1891.

APPROPRIATIONS—STATE OFFICERS.

AN ACT

MAKING APPROPRIATIONS FOR THE PAYMENT OF THE SALARIES OF OFFICERS AND THE EXPENSES OF THE STATE GOVERNMENT FOR THE PERIOD ENDING THE SECOND MONDAY OF JANUARY, A. D. 1893.

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

SECTION 1. That the following sums of money, or so much thereof as may be necessary, are hereby appropriated

out of any money in the treasury not otherwise appropriated, for the payment of the salaries of State officers and the expenses of the State government for the period ending the second Monday of January, A. D. 1893, to be paid out of the general fund of the State, unless herein otherwise specifically stated:

Governor:

Salary, six thousand dollars.

Salary, executive secretary, one thousand dollars.

Postage and postal expenses, two hundred and fifty dollars.

Telegraph, two hundred and fifty dollars.

Stationery, three hundred dollars.

Incidentals, fifty dollars.

Treasurer:

Salary, two thousand dollars.

Postage and express, two hundred dollars.

Stationery, one hundred dollars.

Printing Treasurer's report, three hundred dollars.

Printing, advertising warrants, fifty dollars.

Auditor:

Salary, three thousand six hundred dollars.

Salary, clerk, one thousand dollars.

Printing and advertising, one thousand one hundred dollars.

Postage and express, five hundred dollars.

Stationery, five hundred dollars.

Incidentals, fifty dollars.

Attorney-General:

Salary, four thousand dollars.

Postage and telegraph, two hundred and fifty dollars.

Printing briefs, two hundred and fifty dollars.

Stationery, books and blanks, two hundred and fifty dollars.

Traveling expenses attending court, three hundred dollars.

Incidentals, fifty dollars.

Superintendent of Public Instruction:

Salary, three thousand dollars.

Printing school blanks and stationery, three hundred dollars.

• Publishing school laws, three hundred dollars.

Printing reports, one hundred and fifty dollars.

Miscellaneous printing, one hundred and fifty dollars.

Traveling expenses, two hundred and fifty dollars.

Postage, two hundred dollars.

Secretary of State:

Salary, thirty-six hundred dollars.

Salary, clerk, one thousand dollars.

For assistant librarian, during legislative session, one hundred and twenty-five dollars.

Postage, five hundred dollars.

Express, two hundred dollars.

Freight on arms, clothing and printing for Adjutant-General, eight hundred dollars.

Printing and stationery, three hundred dollars.

Lithographing commissions, records and blanks, two hundred and fifty dollars.

Publishing house and senate journals, one thousand dollars.

Compiling and publishing session laws, two thousand dollars.

Furniture, three hundred dollars.

State seal, including designing, one hundred and ten dollars.

Supreme Court:

Salary, judges, eighteen thousand dollars.

Salary, clerk, four thousand dollars.

Salary, clerk, deficiency, three hundred and eighty-eight dollars.

Per diem for bailiff, crier and messenger, two thousand dollars.

Stationery, three hundred dollars.

Records and blanks, one hundred and fifty dollars.

Calendar, fifty dollars.

Furniture and repairs, fifty dollars.

Postage, one hundred and fifty dollars.

Printing, fifty dollars.

Incidentals, three hundred dollars.

District Court:

Salary judges, thirty thousand dollars.

Salaries district attorneys, twenty-five thousand dollars.

Salaries stenographers, ten thousand dollars, to be apportioned at the rate of one thousand dollars for each judicial district.

Capitol building board:

Employees wages, three thousand two hundred and forty dollars.

Repairs, water and lights, two thousand dollars.

Fuel, one thousand eight hundred dollars.

Telephone, two hundred and eighty-eight dollars.

Maintenance and care of grounds, one thousand dollars.

Insane asylum:

General expenses, fifty-five thousand dollars.

Land department:

General expenses, including selecting, locating, appraising and recording, books, blanks, stationery, selling and leasing, ten thousand dollars.

State penitentiary:

General expenses, fifty thousand dollars.

Improvements and repairs, two thousand dollars.

Miscellaneous:

Rewards for apprehending criminals and fugitives from justice, four thousand dollars; and, in case there be a surplus remaining at the expiration of the year 1891 out of the two thousand dollars appropriated for that year, then such surplus may be employed in the improvement and repairs of the State penitentiary, under the direction of the board of State prison commissioners.

Reimbursing convicts, one thousand dollars.

Conveying convicts to penitentiary, four thousand dollars.

Conveying patients to insane asylum, five thousand dollars.

Interest on bonded indebtedness, two thousand one hundred dollars.

□ Expenses delegate to Denver commission, two hundred and fifty dollars.

Care of State law library, one thousand two hundred dollars.

SEC. 2. The amount of moneys derived from funds created by law for specific purposes are hereby appropriated for said purposes.

SEC. 3. The State Auditor is hereby authorized and required, upon presentation of the proper voucher approved by the State board of examiners, as required by law, to draw his warrant on the stated fund and against the appropriations as made in the preceding sections of this act, in favor of the party entitled thereto.

SEC. 4. Each State officer and each board entitled to draw against the appropriations provided for in this act shall keep an itemized account of all expenditures made by

them and report the same, with vouchers, to the committee on State affairs and federal relations of the house of the next legislature and no State officer or board shall incur any indebtedness beyond the amounts appropriated to him or them, except to prevent inevitable disaster.

SEC. 5. Whereas an emergency exists therefor, this act shall take effect and be in force from and after its passage.

Approved March 14, 1891.

ALIENS—PROHIBITING EMPLOYMENT OF.

AN ACT

TO ENFORCE SECTION 5, OF ARTICLE THIRTEEN, OF THE CONSTITUTION, PROHIBITING THE EMPLOYMENT OF ALIENS ON STATE OR MUNICIPAL WORKS.

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

SECTION 1. No person not a citizen of the United States, or who has not declared his intention to become such, or who is not eligible to become such, shall be employed upon any State or municipal works; nor shall any such person be employed by any contractor to work on any public works of the State or any municipality: *Provided*, That any State prisoner may be employed within the State prison grounds and as provided in section 3, article 13, of the Constitution.

SEC. 2. Any person who shall violate any of the provisions of section one of this act, on conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for each person so employed, or by imprisonment in the county jail until such fine be paid, or until discharged as provided by law.

Approved March 14, 1891.

DISTRICT COURTS—STENOGRAPHERS.

AN ACT

TO PROVIDE FOR THE APPOINTMENT, DUTIES AND COMPENSATION OF STENOGRAPHIC REPORTERS OF THE DISTRICT COURTS.

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

SECTION 1. There shall be appointed within and for each of the judicial districts of this State, by the district

judge, a stenographic reporter, who shall be well skilled in the art of stenography and capable of reporting the oral proceedings in court verbatim.

SEC. 2. Said reporter shall take the oath required to be taken by judicial officers; give a bond, to be approved by the judge of the district court, in the sum of five thousand dollars, conditioned for the faithful discharge of his duties; hold his office during the pleasure of said judge, and receive a salary of one thousand dollars per annum, to be paid in the same manner as the salaries of other State officers are paid.

SEC. 3. The said reporters shall correctly report all oral proceedings had in said court and the testimony taken in all cases tried before said court, but the parties may, with the consent of the judge, waive the recording by such reporter of any part of the proceedings or testimony.

SEC. 4. The reporter shall file the stenographic records and reports made by him with the clerk of the district court of the county in which such report was taken and was tried.

SEC. 5. It shall be the duty of each reporter to furnish, on the application of the Attorney-General, district attorney or any party to a suit in which a stenographic record has been made, a type-written copy of the record, or any part thereof, for which he shall be entitled to receive, in addition to his salary, a fee of fifteen cents per hundred words, to be paid by the party requesting the same, and to be taxed as costs in the case against the party finally defeated in the action: *Provided*, When such copy is requested on behalf of the State, or its attorney, or by a defendant in a criminal case, or his attorney, it must be furnished without payment of fees. Such copy of the records shall constitute, prima facie, the minutes of the court and may be used as such on all motions for new trials, review or appeal when the minutes of the court may be used.

SEC. 6. It shall be the duty of the reporter to deliver said copy within thirty days after being requested.

SEC. 7. The plaintiff in all civil actions hereafter commenced in the district courts, at the time of filing the complaint in such action, shall pay to the clerk of said court the sum of three dollars, which sum said clerk shall, on the first Monday of each month after the receipt thereof, pay into the State treasury, and it shall be placed by the State Treasurer to the credit of the general fund.

SEC. 8. That "An act for the appointment of a court stenographic reporter in each judicial district of Idaho Territory," approved February 4, 1889, and all acts and parts of acts in conflict with this act are hereby repealed.

SEC. 9. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved March 14, 1891.

APPROPRIATIONS FOR PAYMENT OF LEGISLATURE.

AN ACT

TO PROVIDE FOR THE PAYMENT OF OFFICERS, MEMBERS AND EMPLOYEES OF THE FIRST SESSION OF THE LEGISLATURE.

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

SECTION 1. That the sum of nine thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any moneys in the general fund of the State treasury not otherwise appropriated for the purpose of paying the compensation due to the officers, members and employees of the first session of the legislature of the State of Idaho.

SEC. 2. That the State Auditor is hereby authorized and required, upon the presentation to him of the certificate of the presiding officer of the house of which the person therein named is a member, officer or employee, that the party mentioned in said certificate is entitled to compensation to the amount therein stated, to draw his warrant on the general fund for the amount so certified as due.

SEC. 3. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved March 14, 1891.

REVENUE.

AN ACT

RELATING TO REVENUE, AMENDING SECTIONS 1410, 1426, 1532 AND 1645 OF THE REVISED STATUTES OF IDAHO, ADDING SECTION 1654 THERETO.

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

SECTION 1. Section 1410 of the Revised Statutes is amended to read as follows:

Section 1410. An annual advalorem tax of eighty-five cents upon each one hundred dollars of the assessed value of all property in this State not exempted from taxation is hereby levied for State purposes, and upon the same property, the board of county commissioners of each county is hereby authorized and empowered to levy annually a tax for county expenditure not exceeding one hundred and seventy-five cents on each one hundred dollars, and if they deem necessary, a tax of twenty-five cents on each one hundred dollars, to be expended for the repairs and construction of bridges within the county as the board of county commissioners may direct, and such additional and special taxes as the laws of the State may authorize and require them to levy: *Provided*, That whenever the board of county commissioners levy any tax, such levy must be entered on the record of their proceedings, and their clerk must deliver a certified copy thereof to the assessor and tax collector, auditor and treasurer, each of whom must file said copy in his office.

SEC. 2. The following is added to title ten, chapter nine, and shall be section 1653 of the Revised Statutes.

Section 1653. All quarterly license taxes shall become due on the first days of January, April, July and October of each year, or on commencing any business or occupation on which such tax is imposed.

In the former case the tax shall be reckoned for one quarter; in the latter case it shall be reckoned proportionately from the first day of the month in which the liability to such tax commenced to the first day of the quarter then next ensuing. At the expiration of any license in force at the time of the passage of this act, the person liable to such tax shall take out a license for the unexpired portion of the fiscal quarter in which such license expires, paying therefor proportionately.

SEC. 3. Section 1426 of the Revised Statutes is amended to read as follows:

Section 1426. All live stock driven into the State for pasture or grazing, or to a market from other States or Territories, or driven through this State to a market in any other State or Territory, if kept by the owner or person in charge thereof in one county to exceed fifteen days shall be assessed as personal property is assessed in this State in any county where such transient stock may be found, and the tax due on such assessment shall be immediately paid

by the owner or person or persons in charge of such transient stock or secured to the satisfaction of the assessor; and the assessor may distrain and sell such portion of such stock as may be requisite to pay the tax due and the costs of sale in the manner provided by law for the distress and sale of other personal property.

SEC. 4. Section 1532 of the Revised Statutes is amended to read as follows:

Section 1532. The publication must be made in a newspaper, or supplement thereto, once a week for three consecutive weeks, published in the county, if it can be done for not more (than) \$1.00 for each delinquent owner of property; if it cannot be so published, then by posting in not less than three public places in the county, one of which shall be at the court house door.

SEC. 5. Subdivision one, of section 1645, of the Revised Statutes is amended to read as follows:

FIRST.—From each proprietor or keeper of a billiard, pool or bagatelle table, or any other kind of a table on which games are played with the ball and cue, for each table, fifteen dollars per quarter, and for a bowling alley, five dollars per quarter, for each alley; but no license can be granted for a term less than three months.

SEC. 6. Add to title X, chapter 9, of the Revised Statutes, as section 1654, the following:

Section 1654. All persons selling vinous, fermented, malt, mixed or distilled liquors in quantities not less than one gallon shall pay, in advance, a license of one hundred dollars semi-annually.

SEC. 7. Whereas an emergency exists, this act shall take effect and be in force from and after its passage.

Approved March 16, 1891.

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RESOLUTIONS AND MEMORIALS.

WM. T. SHERMAN—DAVID D. PORTER.

SENATE CONCURRENT RESOLUTION, NO. 16.

WHEREAS, The nation has suffered an irreparable loss in the death of William T. Sherman and Admiral David D. Porter, whose services to their country in the dark hours when armed rebellion threatened the perpetuity of free institution, have enshrined their names and fame in the hearts of their countrymen; Therefore,

Be it resolved by the Senate, the House of Representatives concurring, That in respect to the memory of this illustrious general and admiral that the legislature do adjourn until 10 o'clock a. m. to-morrow, February 20, A. D. 1891, and that the Governor be requested to have the flag on the capitol placed at half mast for thirty days.

Passed the Senate February 19, 1891.

Passed the House February 19, 1891.

COMMITTEES.

SENATE CONCURRENT RESOLUTION NO 17.

Resolved by the Senate, the House of Representatives concurring, That the committees on privileges and elections of the house and senate be and are hereby constituted a joint committee on legislative apportionment.

Passed the Senate February 26, 1891.

Passed the House February 27, 1891.

SESSION LAWS—JOURNALS—REVISED STATUTES.

SENATE CONCURRENT RESOLUTION NO. 21.

Be it resolved by the Senate, the House of Representatives concurring, That the Secretary of the State of Idaho is

hereby directed to furnish to each member and to each chief clerk and sergeant-at-arms of the first session of the legislature of the State of Idaho, one copy of the session laws, one copy of the journals of each house, and one copy of (the) Revised Statutes.

Passed the senate March 11, 1891.

Passed the house March 12, 1891.

TARIFF ON LEAD.

SENATE CONCURRENT RESOLUTION NO. 22.

WHEREAS, Two years must elapse before the assembling of another legislature in this State, at which time will be presented the earliest opportunity for the people, through their chosen representatives, to give public expression to their wishes, and,

WHEREAS, The lead product of Idaho is one of its most vital and important industries, constituting for the fiscal year 1888 two-thirds of the entire lead product of the United States, amounting in the aggregate to more than ten millions of dollars; Therefore,

Be it resolved, by the Senate, the House of Representatives concurring, That the Senators and Representative of this State in the 52d Congress be requested, irrespective of party affiliations, to use every possible endeavor to prevent a reduction of the existing duty on lead as now fixed by the McKinley tariff bill: *And be it further resolved,* That the Secretary of State be directed to furnish each of our Senators and Representative in Congress with a certified copy of this memorial.

Passed the senate March 13, 1891.

Passed the house March 14, 1891.

JAMES H. BEATTY.

SENATE CONCURRENT RESOLUTION NO 15.

WHEREAS, It has come to our knowledge that certain charges have been made before the judiciary committee of the United States Senate derogatory to the character of

the Hon. James H. Beatty, for the purpose of defeating his confirmation as United States judge for the district of Idaho, and

WHEREAS, The lofty character and pure life of Judge Beatty, his fine legal attainments, as evinced both on the bench and before the bar, have ranked him in the esteem and the respect of his fellow citizens second to no man in the State; Therefore,

Be it resolved by the Senate, the House concurring, That we tender our thanks to the President for the appointment of James H. Beatty, as district judge for the district of Idaho, and earnestly request the Senate of the United States to confirm said appointment.

Resolved, That the Governor be respectfully requested to transmit one copy of this resolution to the President of the United States, and one copy to Senator Edmunds, chairman of the judiciary committee of the United States Senate.

Passed the senate February 18, 1891.

Passed the house February 20, 1891.

TARIFF ON LEAD.

HOUSE SUBSTITUTE FOR SENATE CONCURRENT RESOLUTION NO. 9.

WHEREAS, The people of Idaho view with alarm the efforts of the enemies of American prosperity to reduce the tariff on lead and lead ores, for the reason that if they should be successful in their attack upon the present tariff and repeal existing law or materially reduce the importation tax on lead and lead ores, it will paralyze the most important industry of our State, upon which every other industry and interest in the State depends to a greater or less extent, and would immediately throw out of employment hundreds of our citizens and compel them to seek other employment and other homes, and at once cut off from our mineral product of wealth, realized from our natural resources, nearly ten millions of dollars, the product of our lead-silver mines, and bring disaster to the State; Therefore,

Be it resolved by the Senate of the State of Idaho, the House of Representatives concurring, That the legislature

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of the State of Idaho protests against the repeal or any modification of the importation tax on lead or lead ores, and our Senators and Representative in Congress are urged to use their best efforts to prevent any change in existing laws touching this subject; and

Resolved, That a copy of these resolutions be forwarded to the lead producers' and miners' convention to be held in the chamber of commerce in Denver, Colorado, on the 13th instant, and one copy to each of our Senators and Representative in Congress.

Passed the house January 9, 1891.

Passed the senate January 12, 1891.

ASSAY OFFICE.

SENATE CURRENT RESOLUTIONS, NO. 10.

To the honorable the Senate and the House of Representatives, in Congress assembled:

We, your memorialists, the legislature of the State of Idaho, would respectfully represent to your honorable bodies that the unjust discrimination now being made by the United States assay office at Boise City, Idaho, against the producers of silver bullion which does not contain any gold, and also against the producers of silver bullion which contains less gold than the law now requires, inflicts great loss and hardship upon the miners, laborers and merchants of the State of Idaho, without accruing any benefit whatever to the general government.

We would respectfully state that it is the custom at the various United States assay offices to purchase all bullion of 500 fineness or over, making 500 fineness the lowest limit, which thus contains \$10.34 gold and one-half ounce of silver per each ounce of bullion, for which said assay office pays the full New York market quotation of the day such bullion is received, the general government thus paying all express and refining charges and even the return exchange on moneys thus paid out at Boise City, while all silver bullion containing gold of a less quantity than \$10.34 per each ounce of bullion is thus rejected, compelling the miner to pay four times as large express charges as does the general government, and in addition pay for refining such bullion and the shipment to New York City where

such bullion is invariably sold to speculators, who only offer the same to the general government when the price suits them.

Besides the great loss by discrimination, the miner must either wait seven or eight weeks before he receives returns for bullion so sold, or borrow money at heavy western interest rates from the banks to pay his just debts to the laborers and merchants who furnished him with supplies.

We respectfully submit that such discrimination is more flagrantly unjust, since under the act of July, 1890, called the "Windom act," authorizing the secretary of the United States treasury to issue silver certificates upon all silver purchased, which silver certificates are thereby made a legal tender for all debts, both public and private, thus enjoying the full purchasing power of gold.

We would further state that the purchasing by the general government of all silver and gold bullion at the United States assay offices nearest the mines will remedy this great wrong and better enable the government to guard against the purchasing of foreign bullion at points where such foreign bullion intermixes with bullion produced from American mines.

Resolved, That our Senators and Representative are hereby requested to use all necessary means to bring the object of this memorial to the attention of Congress: *and be it further resolved*, That the Secretary of State be respectfully requested to transmit a copy of this concurrent resolution and memorial to our Senators and member of Congress.

Passed the senate January 13, 1891.

Passed the house January 14, 1891.

JEWS—PERSECUTION-

SENATE CONCURRENT RESOLUTION, NO. 11.

Requesting our Senators and Representative in Congress to support the resolution introduced in the House of Representatives by Congressman Cummings of New York asking our government to protest and remonstrate against the government of the Czar in the persecution of the Jews in Russia.

We, your memorialists, the legislature of the State of

Idaho, view with horror and dismay the cruel persecution of the Jewish citizens of Russia by the government of that country.

We believe that the government of the United States, true to its traditional sympathy with the unjustly oppressed of every race, religion and nationality, should, in the name of common humanity, raise its voice in protest, doing what in its power lies, to rescue these unfortunates from an impending fate as cruel as it is undeserved.

We are aware that our government is powerless to interfere in the internal affairs of Russia. We feel, however, that an earnest expression deprecating the inhuman, barbarous treatment of the Russian Jewish people, coming from so august a body as the Congress of the United States, could not fail to wield a moral influence upon the government of the Czar.

We respectfully submit that such a remonstrance is in our judgment permissible. If the charges made by Russia against its Jewish subjects be true, it is certainly an unfriendly act to force them upon other nations. If the charges be false, then it is also an unfriendly act on the part of Russia to first pauperize and then expel them in a dependent state, either to perish miserably in the eyes of the civilized world or to become charges upon the pity and charity of powers in amicable intercourse with its government.

Your memorialists, therefore, respectfully ask you to support the resolution introduced in the House of Representatives by Congressman Cummings of New York, requesting our government to protest and remonstrate against the evils herein set forth. And your memorialists will ever pray.

Resolved, That one copy of this memorial be forwarded to each of our Senators and Representative at Washington.

Passed the house January 17, 1891.

Passed the senate January 13, 1891.

UNITED STATES SENATORS.

SENATE CONCURRENT RESOLUTION NO. 12.

WHEREAS, The present session of the legislature was organized on Tuesday, December 9, 1890, and

WHEREAS, The State Constitution and the Admission Act required that two United States Senators should be elected within ten days after the organization of the legislature; and,

WHEREAS, on Tuesday, the 16th day of December, 1890, the legislature, pursuant to the requirements of the Constitution and Admission Act, voted for a United States Senator in the two houses, acting separately, and thereafter, as provided by law, met on December 17, 1890, in joint assembly and voted for a United States Senator, and thereafter, on December 18, 1890, again met in joint assembly and within ten days after its organization elected in the manner provided by law, Hons. Geo. L. Shoup and Wm. J. McConnell United States Senators; and,

WHEREAS, The legislature thereupon immediately proceeded to vote for Hon. Fred T. Dubois for the term beginning March 4th, 1891, in advance of the drawing for terms by the two Senators-elect, in advance of the time fixed by law, without first voting in the two houses acting separately, and against the protest of members of the joint assembly; and,

WHEREAS, Upon full consideration of the facts, it is the opinion of the legislature that if the alleged election of said Hon. Fred T. Dubois is not void, there is at least grave doubt as to its validity; Therefore,

Resolved by the Senate, the House of Representatives concurring, That at the hour of 12 o'clock meridian, of the first legislative day after the passage of this resolution, the legislature will proceed to elect a United States Senator to succeed Hon. Wm. J. McConnell for the term beginning March 4, 1891; and that such election shall be conducted in all respects in the manner provided in section 15 of the Revised Statutes of the United States.

Passed the senate February 6, 1891.

Passed the house February 9, 1891,

FIRST LEGISLATURE—LENGTH OF SESSION.

SENATE CONCURRENT RESOLUTION NO. 14.

WHEREAS, There is a conflict of opinion among the various members of the legislature, and grave doubt existing in the minds of all as to the real intent and true

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interpretation of the Constitution relative to this the first legislative assembly of the State as to the limit of its time, and whether the same be a special or regular session; Therefore,

Be it resolved by the Senate, the House of Representatives concurring, That the question be respectfully submitted to the honorable the supreme judges of the State of Idaho and their opinion asked for the further guidance of the legislature.

Passed the senate February 13, 1891.

Passed the house February 14, 1891.

NEEDED LEGISLATION.

SENATE JOINT RESOLUTION NO. 3.

Resolved by the Legislature of the State of Idaho, That the Attorney-General be requested to advise the legislature as to what legislation is necessary to conform to the State government all laws in force at the time of the admission of Idaho as a State; that he shall report, by bills or otherwise containing such amendments, to the legislature at the present session, and that he be allowed the sum of one hundred and fifty dollars, or so much thereof as may be necessary, to employ clerical assistance for the purpose of making a thorough examination of the statutes for that purpose.

Approved January 23, 1891.

INDIAN RESERVATIONS.

SENATE JOINT MEMORIAL NO. 3.

To his excellency the President of the United States:

Your memorialists, the legislature of the State of Idaho, respectfully represent:

That the Fort Hall and Cœur d'Alene Indian reservations in this State contain the vast domain of 1,550,000 acres of land, much of which is the finest agricultural land in Idaho and is now lying practically unoccupied.

That the feeling among the Indians on these reservations

is ripe for a trial of the severalty system among them, and that its extension to these tribes would be of great benefit to the Indians themselves, to the State of Idaho and to the United States.

That said reservations contain lands unoccupied that would, if opened to settlement and cultivation by white citizens, enormously increase the population and taxable property of the State, and provide pleasant homes for many otherwise homeless people. In view of the facts herein set forth, your memorialists respectfully request your excellency to extend the severalty system over the Indians now living upon these large reservations, in accordance with an act of Congress approved February 8, 1887, "To provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes."

The Secretary of State is hereby requested to forward copies of this memorial to the President of the United States and our representatives in Congress.

Passed the senate February 3, 1891.

Passed the house February 16, 1891.

UNSURVEYED LANDS.

SENATE CONCURRENT RESOLUTION NO. 2.

WHEREAS, The Congress of the United States has granted to the State of Idaho certain public lands for educational, charitable and other purposes, amounting in the aggregate to more than four millions of acres; and,

WHEREAS, A large portion of these lands are still unsurveyed and hence valueless to the State, and unavailable for the purposes for which they have been donated; and,

WHEREAS, There are at this this time large numbers of actual settlers living on unsurveyed lands in this State who have penetrated its mountain fastnesses and at the expense of years of toil built up homes for themselves and families, and who are now anxiously looking for some action of the general government by which they may be enabled to acquire title to these lands and secure to themselves and their posterity the heritage which belongs to them of right; Therefore,

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Be it resolved by the Senate, the House of Representatives concurring, That the Senators and Representative of this State in Congress be, and are hereby requested to use every possible endeavor to secure an appropriation of one hundred thousand dollars for the survey of the public lands of this State.

Passed the senate December 15, 1890.

Passed the house December 17, 1890.

UNITED STATES SENATORS—ELECTION.

SENATE JOINT MEMORIAL NO. 4.

To the Senate and the House of Representatives of the United States in Congress assembled:

Your memorialists, the first legislature of the State of Idaho, would most respectfully petition in favor of an amendment to the Constitution of the United States providing for the election of United States Senators by the direct vote of the people, and to that end we heartily indorse the proposed amendment now before the United States Senate, introduced by Senator Turpie, of Indiana.

The present system creates a legislative body remote from the people, displaces and disturbs necessary legislation in the State legislatures, and is not calculated to reflect the desires and opinions of the citizens of the several commonwealths, and for these and other reasons we hereby declare in favor of the proposed amendment; and the Secretary of State is hereby requested to forward a copy of this memorial to our Senators and Representative in Congress.

Passed the senate February 11, 1891.

Passed the house February 21, 1891.

JOURNAL ERROR.

SENATE CONCURRENT RESOLUTION NO. 7.

WHEREAS, It appears that an error exists in the journal of the joint convention of December 18, 1890, relating to the election of a United States Senator for the full term beginning March 4th, 1891; and,

WHEREAS, said journal not being a faithful and true record of the business then and there transacted; Therefore,

Be it resolved by the Senate, the House of Representatives concurring, That the chief clerks of the respective houses be, and are hereby directed to make the following correction in said journal, to wit:

That so much of said journal as relates to the election of a United States Senator for the full term be corrected, to read, For the term beginning March fourth, 1891, in lieu of March first, 1891, as now appears of record in said journal in two separate places.

JOINT COMMITTEE ON CONSTITUTIONAL AMENDMENTS.

SENATE CONCURRENT RESOLUTION NO. 8.

Resolved by the Senate of the Legislature of Idaho, the House concurring, That a standing joint committee of three from the senate and five from the house, be appointed to consider the question of amendments necessary to the Constitution; reporting to the legislature such amendments as they may deem fit and necessary, and that all bills, resolutions and other matter relating to Constitutional amendments shall be referred to such committee.

AMENDMENTS TO CONSTITUTION.

SENATE JOINT RESOLUTION NO. 9.

A bill for a joint resolution to submit to the electors of the State for rejection or approval an amendment to the Constitution of the State, relating to the compensation of county officers, and amending section 7, of article 18, of the Constitution.

Be it resolved by the Legislature of the State of Idaho:

SECTION 1. That section 7, of article 18, be amended so as to read as follows:

Section 7. The officers provided by section 6 of this article shall receive annually as compensation for their services such salaries or fees, or both, as may be prescribed

by law: *Provided*, That the sheriffs, county commissioners, justices of the peace and constables, in addition to such fees or salaries, or both, they shall be allowed such mileage as may be prescribed by law.

Passed the senate March 12, 1891.

Passed the house March 13, 1891.

FREE COINAGE OF SILVER.

SUBSTITUTE FOR JOINT MEMORIAL NO. 1.

Asking Congress for the passage of a law providing for the free and unlimited coinage of the silver produced from the mines of the United States, and fixing the value thereof.

To the honorable, the Senate and House of Representatives in Congress assembled, and to his excellency, the President of the United States at Washington, D. C.

Your memorialists, the legislature of the State of Idaho, at its first session under Statehood, would most respectfully but urgently ask for the early passage of a law providing for the free and unlimited coinage of the silver, produced from the mines of the United States, as it existed in the days of our fathers prior to the demonetization act of 1872-3; and further, that the relative standard value thereof be retained as nearly as possible, on the present basis of 412½ grains to the dollar.

For the relief of all business, industrial and tax paying citizens in the passage of such a law, we your memorialists will ever pray.

Passed the house February 23, 1891.

Passed the senate February 25, 1891.

ALLOWANCE TO SPECIAL COMMITTEE.

HOUSE JOINT RESOLUTION NO. 2.

Resolved by the Legislature of the State of Idaho: That the special committee appointed to visit and examine into the affairs of the Idaho insane asylum at Blackfoot be allowed as follows:

Wm. Wing, the sum of \$74.40.

I. S. Weiler, the sum of \$74.40.

Stephen Dempsey, the sum of \$74.40.

Thomas Pyeatt, the sum of \$74.40.

F. M. Merrill, the sum of \$74.40.

I. S. Sperry, the sum \$74.40.

For transportation and all expenses incurred while engaged in the performance of said duty.

Passed the house of representatives February 5, 1891.

Passed the senate February 7, 1891.

Approved February 9, 1891.

PRINTING CONSTITUTION.

HOUSE JOINT RESOLUTION NO. 3.

Be it resolved by the Legislature of the State of Idaho: That the Secretary of State be and he is hereby instructed to have printed, without delay, fifteen hundred (1,500) copies of the Constitution of the State of Idaho, together with the admission act; the said Secretary to have the proof carefully revised before printing, in order to guard against mistakes and omissions, and to order that the Constitution and admission act be bound together in one pamphlet, not separately.

Passed the house of representatives February 3, 1891.

Passed the senate February 11, 1891.

Approved February 17, 1891.

ADJOURNMENT.

HOUSE CONCURRENT RESOLUTION NO. 3.

Be it resolved by the House of Representatives of the State of Idaho, the Senate concurring. That when the respective houses of said legislature adjourn on the twentieth day of December, A. D., 1890, they adjourn until the hour of twelve o'clock, noon, on the fifth day of January, A. D. 1891.

Passed the house on the 20th day of December, 1890.

Passed the senate on the 20th day of December, 1890.

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IRRIGATION.

HOUSE JOINT MEMORIAL NO. 3.

To the Senate and the House of Representatives of the United States, in Congress assembled:

Your memorialists, the first legislature of the State of Idaho, would most respectfully represent:

That the State of Idaho lies wholly within the arid domain, and that agriculture is dependent upon irrigation. The reclamation and settlement of the agricultural lands must be accomplished, therefore, under different conditions from those confronting the pioneers in the humid portions of this country. The present land system is the outgrowth of the experience of the humid districts and is wholly unsuited to the conditions which prevail in this State, and, as a result, interposes serious obstacles to the rapid and prosperous utilization of our agricultural resources, and the making of homes by those who are ready and willing to take part in reclaiming the desert.

Your memorialists would also respectfully represent that the most effective remedy for these evils, and the measure which promises the most beneficial results, not only to this State, but to the whole country, would be for Congress to donate to this State all the agricultural and grazing lands within its borders, under such restrictions as would safely and perpetually secure their utilization by actual settlers and cultivators of the lands donated, and would respectfully offer the following as among the reasons for asking for such control and as justifying such donation:

That the reclamation of the agricultural lands imposes upon the settlers engaged in the work, and upon the State government, obligations and expenses not incurred in the humid portions of the country. Not only must ditches be constructed and the lands be prepared for the application of water before there is any return to the farmer, but with the multiplication of these works it becomes necessary for the State to exercise a supervision over them, in order that those entitled to the use of the public waters may receive it. The expense of such supervision is of necessity heavy.

In Idaho there are 2,000 ditches diverting the waters of over 500 streams. The examination of these claims, the determination of the priority, and the subsequent division of the waters among the various claimants, give rise to prob-

lems which require both ability and experience on the part of those charged with their solution, and requires the employment by the State of a large number of officers.

Thus far, the Territory has borne the entire expense of the investigation of our agricultural resources and of the supervision of our public waters, and by the action of Congress granting the State the ownership of all the waters within its borders, the expense and responsibility of such supervision must continue to be borne. The efficiency of this supervision is greatly impaired by the inability of the State to assist in any way in the reclamation and settlement of the desirable lands or to restrict the diversion of water on the less desirable.

In this connection it must be remembered that the lands susceptible of irrigation are largely in excess of the waters to serve them, and that agricultural values inhere in the water rather than in the land. Such selection should, therefore, be made as will secure the use of the water on the best lands, since they vary greatly in value and the quantity of water required. With no supervision the water may be so diverted that the quantity required for irrigation of one acre would suffice for the reclamation of two, three or four acres of land in more favorable locations; but so long as this matter is left wholly to individual ability and inclination, so long will the public interest be lost sight of and wasteful and improper diversions be made.

Our experience during the past five years has shown the evils growing out of the control of the land being under one authority and the water under another. If the late Territory of Idaho could, during the past ten years, have controlled the disposal of the irrigable lands within its borders, it could, while disposing of it to actual settlers only, have afforded such protection to canal companies as would have given our agriculture four times its present importance and more than doubled our population.

The most extensive and valuable bodies of irrigable lands in the State, those bordering our principal rivers, more particularly the Snake river, are untouched, because the experience in constructing canals and the time required for their completion, places the work beyond the reach of individual enterprise and effort, and the general land laws have made colony or corporate enterprises too hazardous to be undertaken. The local government could do nothing to aid the work, both from lack of means and want of

proper control. Another evil of the present condition of affairs is the tendency toward a separation of water rights and land titles. If the State controlled the lands, it would be possible to connect water rights with land titles of all irrigable lands. That this is desirable is admitted by all familiar with the subject. It is both an aid in preventing monopolies in water by companies and securing its more economical use by farmers.

The importance of the pastoral interests in this State makes it desirable that provision be made for the utilization of the grazing lands in connection with the contiguous irrigable areas. The lands comprise a large part of territorial extent. They can never be made the self supporting habitation of man, but furnish a valuable complement to the lands reclaimed—the first furnishing the summer's and the latter the winter food supply. None of the present land laws make adequate provision for securing possession or management of these lands, and some further legislation is needed to meet the requirements of our prospective development and increased population.

We believe, however, that it is impossible for Congress to pass a general law which will operate with equal justice and success on the arid belt as a whole. The conditions differ in different sections, as do our water laws. Idaho differs from Utah, and Arizona from Montana and Wyoming.

The people of each section are the best calculated to determine the system best suited to their needs and should be given the means of carrying it into effect. The results already achieved are a sufficient guarantee of what can be accomplished under more favorable conditions. Under the Territorial laws, ten million dollars was invested in irrigation works and over one million acres of land reclaimed thereby. Not only has the value of the land been enhanced thereby from ten to one hundred fold, but its productive capacity has been correspondingly augmented. Such results are of interest and value to the whole nation, and we believe entitle the State to generous recognition.

The provisions of the State Constitution require the inauguration of the most systematic and complete supervision of the public waters yet undertaken by any commonwealth in this country. It is only, however, by uniting the control of both water and land under one authority, that our irrigation system can have the fullest measure of stability and success. We believe that the control of this

subject can wisely and safely be entrusted to the State, since the practical knowledge of irrigation in this country is almost wholly confined to those engaged in the work. By endowing the State with means, and placing upon it the responsibility for the development of our resources, a great impulse will be given to the diffusion of intelligence on the subject, and to local pride in the character of our irrigation works. It will put the solution of this problem in the hands of the people best informed and most interested in its success.

Passed the house January 27, 1891.

Passed the senate January 31, 1891.

CANAL RIGHT OF WAY.

HOUSE JOINT MEMORIAL NO. 4.

To the honorable, the Senate, and House of Representatives of the United States in Congress assembled:

Your memorailists, the legislature of the State of Idaho, respectfully represent that the citizens of the town of Pocatello, which town is surrounded by the Fort Hall Indian reservation, in Bingham County, State of Idaho, are greatly in need of an improved water supply, and that they desire to obtain water from the Snake river through a canal across said Indian reservation; and inasmuch as the Idaho Canal Company have already constructed a large canal from the Snake river to the north boundary line of the Fort Hall Indian reservation, and are ready to extend their canal to the town of Pocatello to supply the citizens thereof with water for irrigation and culinary purposes, and are ready, also, to furnish water to the Indians of said reservation if so desired at reasonable terms, therefore we petition that you grant to the said Idaho Canal Company the right of way for an irrigating canal across said Fort Hall Indian reservation, and your petitioners will ever pray.

Passed the house February 28, 1891.

Passed the senate March 4, 1891.

Approved March 6, 1891.

SERGEANT-AT-ARMS AND JANITOR.

HOUSE CONCURRENT RESOLUTION NO. 4.

Resolved by the House of Representatives, the Senate con-

*curren*g, ~~That the~~ *ww* ~~the~~ *ww* ~~sergeant-at-arms~~ of the senate and house of representatives, and the janitors of the senate and house of representatives remain on duty and receive the per diem accorded by law, during the holiday recess of the legislature.

Passed the house December 20, 1890.

Passed the senate December 20, 1890.

JAMES W. FORSYTH.

HOUSE JOINT MEMORIAL NO. 5.

To the Honorable Benjamin Harrison, President of the United States:

Your memorialists, the legislature of the State of Idaho, recognizing the gallant and heroic services of Colonel James W. Forsyth during the rebellion, and particularly appreciating the important part borne by him in suppressing the hostile Indian outbreak in Idaho in the year 1878, would most respectfully but earnestly ask that Colonel James W. Forsyth be promoted to the rank of brigadier-general, to fill the vacancy soon to occur by the retirement of Brigadier-General John Gibbon, and your memorialists will ever pray.

Passed the house March 12, 1891.

Passed the senate March 12, 1891.

JOINT RULES.

HOUSE CONCURRENT RESOLUTION NO 5.

Resolved by the House of Representatives, the Senate concurring, That the words "acting jointly" be stricken out joint rule No. 11.

Adopted by the house January 15, 1891.

Adopted by the senate January 15, 1891.

WILLIAM WINDOM.

HOUSE CONCURRENT RESOLUTION NO. 8.

Be it resolved by the House of Representatives of Idaho, the Senate concurring, That in view of the loss the nation has sustained by the death of William Windom, Secretary of the Treasury of the United States, and as a token of

respect for the distinguished dead, the flag on the capitol building be kept at half-mast until the funeral of the late Secretary has taken place, and that this resolution be spread at large on the journals of the house and senate.

Adopted by the house January 31, 1891.

Adopted by the senate January 31, 1891.

MEMORIAL SERVICES.

HOUSE CONCURRENT RESOLUTION NO. 11.

Resolved by the House of Representatives, the Senate concurring, That the house of representatives and senate of the State of Idaho do accept with thanks the invitation of the Grand Army post of Boise City to attend the memorial services, as a body, to be holden in Sonna's Opera House, Sunday evening, February 22, at seven o'clock, in honor and commemoration of the life and public services of General William T. Sherman and David D. Porter, and for that purpose the members of the respective houses are requested to meet at the capitol building at 6:30 o'clock, Sunday night, thence to proceed to Sonna's Opera House.

Passed the house February 21, 1891.

Passed the senate February 21, 1891.

ADJOURNMENT.

HOUSE CONCURRENT RESOLUTION NO. 14.

Resolved by the House the Senate concurring, That the legislature adjourn sine die, 12 o'clock m., on Saturday, March 14, 1891.

Passed the house March 10, 1891.

Passed the senate March 10, 1891.

AMENDING SUBSTITUTE FOR HOUSE BILL 19.

HOUSE CONCURRENT RESOLUTION NO. 15.

Resolved by the House of Representatives, the Senate concurring, That the word "thereof" be inserted after the word "much" in section 2 of the senate substitute for house bill No. 19.

Passed the house March 10, 1891.

Passed the senate March 10, 1891.

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UNITED STATES OF AMERICA,
STATE OF IDAHO.

I, A. J. PINKHAM, Secretary of State, do hereby certify that the foregoing printed volume contains true and literal copies of all the Laws, Memorials and Joint Resolutions passed by the First Session of the Legislature of the State of Idaho, which convened on the 8th day of December, 1890, and adjourned March 14th, 1891, as copied from the original engrossed bills, memorials and resolutions on file in my office.



In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State. Done at Boise City, the Capital, this 1st day of June, in the year one thousand eight hundred and ninety-one, and of the Independence of the United States the one hundred and fifteenth.

A. J. Pinkham

Secretary of State.

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