

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

Approved February 24, 1891:

CHAPTER XXIX.

[S. B. No. 84.]

APPEALS FROM JUSTICES' COURTS.

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

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

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

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

Appeal; how taken.

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

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

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

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

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

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

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

Recognizance
by witnesses.

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

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

Failure to prosecute appeal.

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

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

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

Approved February 24, 1891.

CHAPTER XXX.

[S. B. No. 107.]

PARTIES TO CIVIL ACTIONS.

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

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

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

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