

CHAPTER XIX.

[S. B. No. 83.]

RELATING TO EVIDENCE.

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

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

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

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

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

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

Rights of parties.

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

Rebuttal.

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

Contempt.

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

Depositions.

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

Notice.

Requirements for notice.

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

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

Depositions in appeals.

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

Competency of records.

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

To perpetuate testimony.

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

Discretion of
court.

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

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

Approved February 24, 1891.

CHAPTER XX.

[S. B. No. 58.]

TO FIX TIME OF MEETING OF THE LEGISLATURE.

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

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

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

Approved February 24, 1891.