

spective officer or officers at such time having jurisdiction of the same, and such orders may be enforced by appropriate action at law or in equity at the suit of the state.

SEC. 3. An emergency exists and this act shall take ^{Emergency.} effect immediately.

Passed by the Senate February 23, 1909.

Passed by the House March 8, 1909.

Approved March 17, 1909.

CHAPTER 159.

[S. B. 97.]

APPROPRIATION FOR INSPECTION OF VESSELS.

AN ACT to appropriate one thousand dollars (\$1,000.00) to carry on the inspection of steam vessels, and vessels or boats operated by machinery, navigating the waters within the jurisdiction of this state, excepting vessels which are subject to inspection under the laws of the United States.

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

SECTION 1. That a sum of one thousand dollars (\$1,000.00) be appropriated, in addition to fees and fines collected, for the inspection of steam vessels, and vessels or boats operated by machinery, navigating the waters within the jurisdiction of this state, excepting vessels which [are subject] to inspection under the laws of the United States. Appropriation \$1,000.

Passed by the Senate March 2, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 160.

[S. B. 20.]

RELATING TO GARNISHMENTS.

AN ACT in relation to garnishments in justice courts in the State of Washington.

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

SECTION 1. The justice of the peace in the various precincts in the state may issue writs of garnishment,

returnable to their respective courts, where the plaintiff sues for a debt and makes affidavit that such debt is just, due and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee.

Writs, how issued.

SEC. 2. Before the issuance of the writ of garnishment, the plaintiff, or someone in his behalf, shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, and that he has reason to believe and does believe that the garnishee is indebted to the defendant or that he has in his possession or under his control personal property or effects belonging to the defendant, or that the garnishee is a corporation and that the defendant is the owner of shares of the capital stock thereof.

Basis of writ.

SEC. 3. When the foregoing requisites have been complied with, the justice of the peace shall immediately issue a writ of garnishment directed to the garnishee, commanding him to appear before the court from which it is issued, on the return day of the summons and notice or notice and complaint in the main action, and to answer on oath in what amount, if any, he was indebted to the defendant when such writ was served upon him and what personal property or effects, if any, of the defendant he had in his possession or under his control when such writ was served upon him; and where it appears from the affidavit for the writ that the garnishee is a corporation in which the defendant is the owner of shares, the writ of garnishment shall further require the garnishee to answer what number of shares, if any, the defendant owned in such corporation when such writ was served upon it.

Contents of writ.

SEC. 4. Said writ shall be substantially in the following form:

Form.

To *Greeting:*

Whereas, in the justice court in and for precinct, county, State of Washington, in a certain cause wherein is plaintiff and is defendant, the plaintiff claiming an indebtedness against the said of dollars, besides interest

and costs of suit, has applied for a writ of garnishment against you:

Now therefore, you are hereby summoned to be and appear before the said justice, at his office in said county, on the day of, 19. . . ., at o'clock in thenoon of said day, that being the return day of the summons (or notice and complaint) in the main action, then and there to answer upon oath in what amount, if any, you were indebted to the said when this writ was served upon you, and what personal property or effects, if any, of the said you had in your possession or under your control when this writ was served upon you (and if the garnishee be a corporation in which the defendant is alleged to be the owner of shares, then the writ shall proceed: And further to answer what number of shares, if any, the said owned in, a corporation, when this writ was served upon you).

SEC. 5. The writ of garnishment shall be dated and signed by the justice of the peace, and the name and office address of the attorney for the plaintiff shall be endorsed thereon, or in case the plaintiff has no attorney, then the name and address of the plaintiff shall be endorsed thereon. The writ, when so issued and endorsed, shall be delivered by the justice of the peace who issues it to the party applying therefor, or to his attorney.

Writ. to
whom de-
livered.

SEC. 6. The writ of garnishment may be served by the sheriff or any constable of the county in which the garnishee lives, or it may be served by any citizen of the State of Washington over the age of twenty-one years and not a party to the action in which it is issued, in the same manner as a summons in an action is served. And in case such writ is served by an officer, such officer shall make his return thereon, showing the time, place and manner of service and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit

How served.

showing his qualifications to make such service and the time, place and manner of making service, but no fee shall be allowed for the service of such writ unless the same is served by an officer.

Bank as
garnishee.

SEC. 7. In cases where the writ of garnishment issued under the provisions of this act is directed to a corporation carrying on a general banking business in the State of Washington, the plaintiff, in addition to serving the writ of garnishment upon said garnishee, shall at the same time and as a part of said service deliver to said garnishee a statement in writing signed by the plaintiff or his attorney, stating the place of residence of the defendant and his business, occupation, trade or profession, and unless such statement is so delivered with said writ of garnishment, the service of said writ shall not be deemed complete and the garnishee shall not be held liable thereon.

Duty of
garnishee.

SEC. 8. From and after the service of such writ of garnishment, it shall not be lawful for the garnishee to pay to the defendant any debt owing to him at the time of such service, or to deliver to him any personal property or effects belonging to the defendant in his possession or under his control at the time of such service, nor shall the garnishee, if it be a corporation in which the defendant is alleged to be the owner of shares, permit or recognize any sale or transfer of any shares owned by said defendant at the time of such service; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, personal property or effects or shares as may be necessary to satisfy the plaintiff's demand.

Bond by de-
fendant re-
leases
garnishee.

SEC. 9. If the defendant in the principal action causes a bond to be executed to the plaintiff, with sureties, to be approved by the justice of the peace issuing the writ, conditioned that he will pay any judgment that may be rendered against him in favor of the plaintiff in said action, and shall file said bond with said justice of the peace, the writ of garnishment shall, upon the filing and approval of said bond, be immediately discharged, and all proceedings had thereunder shall be vacated and said

justice shall issue and deliver to said defendant a certificate to the effect that said writ of garnishment has been discharged, and upon the delivery of said certificate to the garnishee he shall be discharged of any further liability under said writ: *Provided*, That the garnishee shall not be thereby deprived from recovery of costs in said proceeding to which he would otherwise be entitled under this act.

SEC. 10. The answer of the garnishee shall be in writing and signed and verified as other pleadings and shall make true answers to the several matters inquired of in the writ of garnishment and shall be served upon the plaintiff or his attorney and filed with the justice of the peace who issued said writ.

Answer of
garnishee.

SEC. 11. Should it appear from the answer of the garnishee that he was not indebted to the defendant when the writ of garnishment was served upon him and that he had not in his possession or under his control any personal property or effects of the defendant when the writ was served; and when the garnishee is a corporation in which the defendant is alleged to be the owner of shares of stock, if it shall further appear from such answer that the defendant was not the owner of any such shares when the writ was served, and should the answer of the garnishee not be controverted as hereinafter provided, the court shall enter judgment discharging the garnishee.

Garnishee
discharged,
when.

SEC. 12. Should the garnishee fail to make answer to the writ within the time prescribed therein, the court shall, upon application of the plaintiff therefor, declare and enter the default of the garnishee and shall thereafter render judgment as follows:

Default of
garnishee.

In case judgment has not been rendered in the principal action at the time when the default of garnishee is declared and entered, final judgment shall not be rendered against said garnishee until the final judgment in the principal action is entered, and if the plaintiff recovers judgment against the principal defendant the court shall enter judgment against the garnishee for the full amount of the judgment awarded to the plaintiff against the de-

Failure of
action dis-
charges
garnishee.

fendant; and if the plaintiff fails to recover judgment against the defendant, the garnishee shall be discharged without costs.

Judgment
against
garnishee.

SEC. 13. Should it appear from the answer of the garnishee, or should it be otherwise made to appear as hereinafter provided, that the garnishee was indebted to the defendant in any amount when the writ of garnishment was served upon him, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due from the garnishee, less the amount of the costs awarded to the garnishee, unless the amount so admitted or found to be due shall exceed the amount of the judgment rendered or thereafter rendered in favor of the plaintiff against the defendant, with interest and costs, in which case it shall be for the amount of such judgment rendered or thereafter to be rendered, with interest and costs: *Provided, however,* That judgment shall not be rendered against the garnishee until the final judgment in the principal action is entered, and if the plaintiff fails to recover judgment against the defendant the garnishee shall be discharged and shall have and recover his costs against plaintiff: *Provided, however,* If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the trial hereinafter provided for that the garnishee was indebted to the defendant in any sum at the time of the service of said writ, but that said indebtedness is not matured and is not due and payable, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, less the amount of the costs awarded to the garnishee, the date when such payment is to be made to be specified in said order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found to be due. In case the garnishee shall pay said sum at the time specified in said order, said payment shall operate as a discharge; otherwise judgment shall be entered against him as above provided: *Provided further,* That if judgment shall be rendered in favor of the prin-

Unmatured
liability of
garnishee.

cipal defendant, or if any judgment rendered against him shall be satisfied prior to the date of payment specified in said order, the garnishee shall not be required to make the payment hereinbefore provided for, nor shall any judgment in such case be against him.

Satisfaction of judgment discharges garnishee.

SEC. 14. Execution may be issued on the judgment against the garnishee herein provided for in like manner as upon any other judgment. The amount made upon any such execution shall be paid by the officer executing the same to the justice of the peace from whom such execution was issued, and shall be applied to the satisfaction of such judgment, interest and costs, and also to the satisfaction of the judgment against the defendant, and the surplus, if any, shall be paid to the garnishee.

Execution.

SEC. 15. Should it appear from the answer of the garnishee, or should it be made otherwise to appear, as hereinafter provided, that the garnishee had in his possession or under his control when the writ was served upon him, any personal property or effects of the defendant liable to execution, the court shall render a decree requiring the garnishee to deliver up to the justice on demand, such personal property or effects, or so much of them as may be necessary to satisfy the plaintiff's claim. In cases where a judgment has been rendered in the principal action, such personal property or effects may be sold in like manner as other property is sold upon execution on a judgment. In cases where judgment has not been rendered in the principal action, the justice of the peace shall retain such personal property or effects in his possession until the rendition of the judgment therein, and in case judgment is entered in such principal action in favor of the plaintiff, said goods, or effects, or sufficient of them to satisfy said judgment, may be sold in like manner as other property is sold upon an execution issued on a judgment. In case judgment shall be rendered in such action against the plaintiff and in favor of the defendant, such effects and personal property shall be by the justice returned to the defendant.

Garnishee to surrender property to court.

Court to hold personal effects.

SEC. 16. Should the garnishee adjudged to have effects or personal property of the defendant in his possession or under his control, as provided in the preceding section, fail or refuse to deliver them to the justice on such demand, the garnishee shall, on motion of the plaintiff, be cited to show cause why he should not be attached for contempt of court for such failure or refusal, and should the garnishee fail to show some good and sufficient excuse for such failure and refusal he shall be fined for such contempt and imprisoned until he shall deliver such personal property or effects.

Garnishee
attached
for
contempt.

SEC. 17. Where the garnishee is a corporation and it appears by the answer or otherwise that the defendant was, when the writ of garnishment was served upon it, the owner of any shares of stock in such corporation, the court shall render a decree ordering the sale under execution in favor of the plaintiff against the defendant of such shares of the defendant in such corporation, or so much thereof as may be necessary to satisfy such execution.

Shares of
stock sold.

SEC. 18. The sale so ordered shall be conducted in all respects as other sales of personal property under execution, and the officer making such sale shall execute a transfer of such shares to the purchaser with a brief recital of the judgment of the court under which the same was sold.

Sales, how
conducted.

SEC. 19. Such sale shall be valid and effectual to pass to the purchaser all the right, title and interest which the defendant had in such shares of stock, and the proper officers of such company shall enter such sale and transfer on the books of the company in the same manner as if the sale had been made by the defendant himself.

What title
passes.

SEC. 20. If the plaintiff should not be satisfied with the answer of the garnishee, he shall state such fact to the justice of the peace, who shall thereupon enter the fact in his docket, and an issue shall be formed under the direction of the court and tried as other cases: *Provided, however,* No pleading shall be necessary on such issue other than the affidavit of the plaintiff, the answer

Pleadings.

of the garnishee and the statement of the plaintiff that he is not satisfied with the answer.

SEC. 21. Where the answer is controverted and the garnishee is subsequently discharged upon the trial thereof, his costs, including a reasonable attorney's fee to be fixed by the court, shall be taxed against the plaintiff; and if the garnishee upon his answer being controverted by the plaintiff is held liable to an extent greater than the liability admitted in his answer, the costs of the plaintiff upon such proceeding, including a reasonable attorney's fee to be fixed by the court, shall be taxed against the garnishee.

Attorney's
fee.

SEC. 22. It shall be a sufficient answer against any claim of the defendant against the garnishee founded on any indebtedness of such garnishee or upon the possession by him of any personal property or effects, or, where the garnishee is a corporation in which the defendant was the owner of shares of stock, for the garnishee to show that such indebtedness was paid or such effects delivered, or such shares of stock were sold under judgment of the court in accordance with the provisions of this act.

Garnishee's
defense
against
defendant.

SEC. 23. Where the garnishee in his answer states that he was indebted or had personal property or effects in his possession or under his control at the time of the service of the writ of garnishment upon him to a person of the same or similar name to the defendant, and stating the place of business or residence of said person, and that he does not know whether or not such person is the same person as the defendant, and prays the court to determine whether or not the person to whom he was indebted or whose personal property or effects he had in his possession is the same person as the defendant, the court, before rendering judgment against the garnishee defendant as hereinbefore provided, shall take proof as to the identity of said persons, and if he should find therefrom that they are not one and the same individual, the garnishee shall be discharged and shall have and recover his costs against the plaintiff; and if he should find that said persons are

Similarity
of names.

Trial as to
identity.

one and the same individuals, he shall make a similar judgment as to the payment of the money or the delivery of personal property and effects and as to costs of the garnishee as is hereinbefore provided, where the garnishee is held upon his answer. Before any such hearing on the question of identity is had, the plaintiff shall cause the justice of the peace to issue a citation directed to the person to whom the garnishee answers he was indebted or whose personal property or effects the garnishee has answered he had in his possession or under his control, commanding him to appear before the justice of the peace from which it is issued within ten days after the service of the same upon him, and to answer on oath whether or not he is the same person as the defendant in said action. Said citation shall be dated and attested in like manner as a writ of garnishment and be delivered to the plaintiff or his attorney and shall be served in the same manner as a summons in an action is served. If upon the hearing in this section provided for, the court shall find that the defendant or judgment debtor is the same person as the person to whom the garnishee defendant was indebted, or whose personal property or effects said garnishee defendant had in his possession or under his control, it shall be sufficient answer to any claim of said person against the garnishee founded on any indebtedness of such garnishee or on the possession by him of any personal property or effects for the garnishee to show that such indebtedness was paid or such personal property or effects delivered under the judgment of the court in accordance with the provisions in this act.

Garnishee
need not
defend.

SEC. 24. It shall not be necessary for the garnishee to plead or set forth in his answer any defense which the defendant might have to the cause of action against him, nor to plead or set forth in his answer any claim of exemption which may be available to the defendant, but this section shall not be construed to preclude the defendant from pleading, claiming or asserting any exemption which

may be available to him under the laws of the State of Washington now in force or hereafter to be enacted.

Passed by the Senate February 9, 1909.

Passed the House March 5, 1909.

Approved March 17, 1909.

CHAPTER 161.

[S. B. 227.]

GIVING CITIES LIEN FOR SERVICES FURNISHED.

AN ACT granting to cities owning their own water-works, electric light or power plants a lien for delinquent charges, and providing for the enforcement thereof.

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

SECTION 1. That cities owning their own water-works, electric light or power plants, are hereby granted a lien for delinquent and unpaid charges for water or electric light or power, against the premises to which the same has been furnished.

Lien for
unpaid
charges.

SEC. 2. Said lien may be enforced by cities only by cutting off water or electric light or power against the premises to which the same has been furnished, after the charges become delinquent and unpaid, until such charges are paid. In the event of a disputed account, and tender by the owner of the premises of the amount claimed by him to be due prior to the city discontinuing such a service, the right to so refuse service to any premises shall not accrue until suit has been entered by the city, and judgment entered in such case.

Enforcement
of lien.

Passed by the Senate March 6, 1909.

Passed by the House March 8, 1909.

Approved March 17, 1909.