

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

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

Approved February 26, 1891.

CHAPTER LVIII.

[S. B. No. 105.]

MANNER OF COMMENCING CIVIL ACTIONS.

AN ACT relating to the manner of commencing civil actions.

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

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

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

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

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

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

[L. s.]

———, Clerk of said Court.

Service.

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

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

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

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

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

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

In case of two
or more de-
fendants.

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

Approved February 26, 1891.

CHAPTER LIX.

[S. B. No. 118.]

RELATING TO NEW TRIALS.

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

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

Limit of time.

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