

CHAPTER 86.

[S. B. 197.]

RELATING TO TRIALS.

AN ACT relating to practice and proceedings in the trial of actions, and amending section 1 of chapter 81 of the Session Laws of 1903.

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

[Am'd. § 1,
ch. 81, p. 119,
L. '03; § 221,
Code of '81;
§ 4993 Bal.;
§ 607 Pierce.]

SECTION 1. That section 1 of chapter 81 of the Session Laws of 1903, relating to the practice and proceedings in the trial of actions is hereby amended to read as follows:

Section 1. That section 221 of an act entitled "An act to regulate the practice and proceedings in civil actions, approved December 1, 1881, (the same being section 4993 of Ballinger's Annotated Codes and Statutes of the State of Washington, and section 607 of Pierce's Code) be and the same is hereby amended to read as follows: Sec. 221. When a jury has been sworn, the trial shall proceed in the following manner:

Statement of
case.

(1) The plaintiff shall briefly state the cause of action and the evidence by which he expects to sustain it. The defendant may in like manner state the defense, and the evidence he expects to offer in support thereof, but nothing in the nature of comments or argument shall be allowed in opening a case. It shall be optional with the defendant whether he states his case before or after the close of the plaintiff's evidence.

Burden of
proof.

(2) The plaintiff, or the party upon whom rests the burden of proof in the whole action, must first produce his evidence; the adverse party will then produce his evidence.

Rebuttal.

(3) The parties then will be confined to rebutting evidence, unless the court shall consider that justice requires that evidence in the original case may then be offered.

Charge to
jury.

(4) The court must reduce the charge to be given the jury to writing, and at the conclusion of the evidence he shall read his written charge to the jury. Either party may request such instructions as he deem material to the

case, and the court may hear them upon the propriety of the requested instructions before finally settling the charge that he will give. If a stenographer shall be in attendance upon the trial of the cause, the court shall have the right to dictate the charge he desires to give to such stenographer, and to have the stenographer reduce the same to writing for him and a copy for each of the parties plaintiff and defendant. And the cost thereof shall be taxed as other costs in the action. When the charge shall have been given by the court, the plaintiff, or party having the burden of proof, may, by himself, or one counsel, address the court and jury upon the law and facts in the case, after which the adverse party may address the court and jury in like manner, by himself and one counsel or by two counsel, and be followed by the party or counsel of the party first addressing the court. No more than two speeches on behalf of plaintiff or defendant shall be allowed. After the argument shall have been concluded, the jury shall retire to consider their verdict, and shall take with them to the jury room, among other matters proper to be taken to their jury room for further consideration by them, the written charge given them by the court. Either party, at any time before the hearing of a motion for a new trial may except to the instructions given by the court, or any part thereof.

Charge may be dictated.

Argument.

Written charges in jury room.

Passed by the Senate February 9, 1909.

Passed by the House March 8, 1909.

Approved March 11, 1909.