

Damages for
fraud.

Confession of
judgment.

Attachment.

exceeding the amount claimed in the complaint. 5. Of an action on an undertaking or surety bond taken by him or his predecessor in office when the amount claimed is less than one hundred dollars. 6. Of an action for damages for fraud in the sale, purchase or exchange of personal property when the damages claimed are less than one hundred dollars. 7. To take and enter judgment on confession of a defendant when the amount of the judgment confessed is less than one hundred dollars. 8. To issue writs of attachment upon goods, chattels, moneys and effects when the amount is less than one hundred dollars. 9. Of all other actions and proceedings of which jurisdiction is specially confessed by statute when the amount involved is less than one hundred dollars, and the title to or right of possession of or to a lien upon real property is not involved.

Approved March 3, 1891.

CHAPTER LXXIV.

[S. B. No. 131.]

APPROPRIATING LAND FOR PUBLIC USES.

AN ACT to regulate the mode of proceeding to acquire and appropriate land, real estate and other property for public uses of the State of Washington, and prescribing the method of ascertaining and making compensation therefor, and declaring an emergency.

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

SECTION 1. Whenever the legislature of this state shall deem it necessary for the public uses of the state to acquire or appropriate land, real estate, premises or other property, and shall by act set forth and describe such land, real estate, premises or other property, it shall be the duty of the attorney general to present to the superior court of the county in which said land, real estate, premises or other property so sought to be acquired or appropriated shall be situated, a petition in which the land, real estate, premises

By petition.

or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, incumbrancer or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be empaneled to ascertain and determine the compensation to be made in money to such owner or owners, respectively, and to all tenants, incumbrancers and others interested, for taking such lands, real estate, premises or other property, or in case a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained and determined by the court or judge thereof.

SEC. 2. A notice stating briefly the objects of the petition and containing a description of the land, real estate, premises or property sought to be acquired and appropriated, and stating the time and place when and where the same will be presented to the court or the judge thereof, shall be served on each and every person named therein as owner, incumbrancer, tenant or otherwise interested therein at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of minors on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons on their guardians, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other

Jury.

Waiver.

Service of notice.

Service on domestic corporations.

Appropriation
of school or
county lands.

In case of non-
resident owner.

Proof of service.

Powers of
court.

property sought to be appropriated is school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be acquired and appropriated is situated. In all cases where the owner or person claiming an interest in such real estate or other property is a non-resident of this state, or where the residence of such owner or person is unknown, and an affidavit of the attorney general shall be filed that such owner or person is a non-resident of this state, or that after diligent inquiry his residence is unknown or cannot be ascertained, service may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest the county in which lies the land sought to be acquired and appropriated. And such publication shall be deemed service upon each of such non-resident person or persons whose residence is unknown. Such notice shall be signed by the attorney general of the State of Washington. Such notice may be served by any competent person over twenty-one years of age. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, order and other papers in the proceedings authorized by this act may be made as the superior court or judge thereof may direct.

SEC. 3. The court or judge may, upon application of the said attorney general or any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

SEC. 4. At the time and place appointed for hearing said

petition, or to which the same may have been adjourned, ^{Hearing of cause.} if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property, described in said petition, have been duly served with said notice as above prescribed, and shall be further satisfied by competent proof that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really necessary for the public use of the State of Washington, the court or judge thereof may make an order, to be recorded in the minutes of said court, directing the sheriff to summons from the citizens of the county in which such land, real estate, premises or other property sought to be acquired or appropriated shall be situated, as many qualified persons as may be necessary in order to form a jury of twelve ^{Jury.} persons, unless the parties to the proceedings consent to a less number (such number to be not less than three), and such consent shall be entered by the clerk in the minutes of the trial. If necessary to complete the jury, the sheriff, under the direction of the court or judge thereof, shall summon as many qualified persons as may be required to complete the jury from the bystanders, citizens of the county where the land, real estate, premises or other property is situated.

SEC. 5. A judge of the superior court shall preside at the trial, which shall be held at such time as the court or the judge thereof may direct, at the court house in the county where the land, real estate, premises or other property sought to be appropriated or acquired is situated, and the jurors at such trial shall make in each case a separate assessment of damages which shall result to any ^{Separate assessment of damages.} person, corporation or company, or to any county, by reason of the appropriation and use of such land, real estate, premises or other property, and shall ascertain, determine and award the amount of damage to be paid said owner or owners respectively, and to all tenants, incumbrancers and others interested for taking such land, real estate, premises or other property so taken. Upon the trial, witnesses may ^{Conduct of trial.} be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpoena in

such proceedings shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. Upon the verdict of the jury, judgment shall be entered for the amount of the damages awarded to such owner or owners, respectively, and to all tenants, incumbrancers and others interested, for taking such land, real estate or premises. In case a jury is waived, as in civil cases in courts of record, in the manner prescribed by law, the compensation to be paid for the property sought to be appropriated shall be ascertained and determined by the court or the judge thereof, and the proceedings shall be the same as in trials of an issue of fact by the court.

When a jury is waived.

Judgment or decree.

SEC. 6. At the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate or premises sought to be appropriated, thereby vesting the legal title to the same in the State of Washington. Whenever said judgment or decree of appropriation is made, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate, and with like effect.

Damages; how paid.

SEC. 7. Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the State of Washington may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or the judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs to any land, real estate, premises or other property mentioned in said petition, said State of Washington shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court and the costs of appeal: *Provided*, That in case of an appeal to the supreme court of the state

In case of appeal.

by any party to the proceedings, the money so paid into the superior court by the state as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court.

SEC. 8. Any person, corporation or county claiming to be entitled to any money paid into court, as provided in this act, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or it is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he or it shall be found entitled to; but if, upon application, the court or judge thereof should decide that the title to the land, real estate or premises specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced and the conflicting claims to such land, real estate or premises be determined according to law.

Payment of damages to different persons jointly.

Conflicting claims.

SEC. 9. Either party may appeal from the judgment for damages entered in the superior court, to the supreme court of the state, within thirty days after the entry of judgment as aforesaid, and such appeal shall bring before the supreme court the propriety and justness of the amount of damage in respect to the parties to the appeal: *Provided however*, That upon such appeal no bond shall be required: *And provided further*, That if the owner of land, the real estate or premises accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively an appeal to the supreme court, and final judgment by default may be rendered in the superior court as in other cases: *Provided further*, That no appeal shall operate so as to prevent the said State of Washington from taking possession of such property pending such appeal after the amount of said award shall have been paid into court.

Appeals.

Waiver of appeal.

Effect of appeal.

SEC. 10. Whenever the attorney general shall file with the auditor of this state a certificate setting forth the amount of any award found against the State of Washington under the provisions of this act, together with the

Duty of state
auditor.

costs of said proceeding, and a description of the lands and premises sought to be appropriated and acquired, and the title of the action or proceeding in which said award is rendered, it shall be the duty of the state auditor to forthwith issue a warrant upon the state treasury to the order of the attorney general in a sum sufficient to make payment in money of said award and the costs of said proceeding, and thereupon it shall be the duty of said attorney general to forthwith pay to the clerk of said court in money the amount of said award and costs.

Emergency.

SEC. 11. Whereas, there is no law now in force in this state prescribing the manner in which private property may be acquired for the use of the State of Washington, therefore an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 3, 1891.

CHAPTER LXXV.

[S. B. No. 147.]

RELATING TO LIENS.

AN ACT to amend section 1975 of the Code of Washington relating to liens.

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

Laborer's lien.

SECTION 1. That section 1975 of chapter CXXXIX of the code of Washington relating to liens be and the same is hereby amended to read as follows: Sec. 1975. Any person who shall do labor upon any farm or land, in tilling the same or in sowing or harvesting or threshing any grain, as laborer, contractor or otherwise, or laboring upon, or securing or assisting in securing or housing any crop or crops sown, raised or threshed thereon during the year in which said work or labor was done, such person shall have a lien upon all such crops as shall have been raised