

of the above named rivers: *Provided*, No traps shall be located on or within three miles below the mouth of the Lewis river. It shall be unlawful at any time to take any <sup>Traps.</sup> fish with a net, trap or other device than hook and line in Chambers creek in the county of Pierce, or within two hundred and fifty yards of the mouth of said creek, and the mouth of said creek shall be construed to mean the junction where the fresh and salt waters meet at low tide. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof for each and every offense be subject to a fine of not less than fifty dollars nor more than one thousand dollars, or may be imprisoned in the county jail not less than ten days nor more than one year, or may be both fined and imprisoned.

SEC. 2. An emergency exists and this act shall take <sup>Emergency.</sup> effect immediately.

Passed by the Senate February 24, 1909.

Passed by the House February 24, 1909.

Approved February 26, 1909.

## CHAPTER 24.

[S. B. 198.]

### RELATING TO SUPREME COURT.

AN ACT increasing the number of judges of the Supreme Court of the State of Washington, providing for the court *en banc* and for separate departments of such court, for the holding of terms thereof, for the method of hearing and determining causes therein, authorizing the making of rules; and declaring an emergency.

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

SECTION 1. The Supreme Court, from and after the <sup>Nine judges.</sup> taking effect of this act, shall consist of nine judges.

SEC. 2. Upon the taking effect of this act, the Governor <sup>Governor to appoint two.</sup> shall appoint the two additional judges herein provided

for, who shall hold office until the second Monday in January, 1911. At the next succeeding general election after the passage of this act there shall also be elected two judges, in addition to those provided by existing law, to hold office for the full term of six years commencing with the second Monday in January, 1911, and likewise every six years thereafter two judges shall be elected, in addition to those provided for by existing law.

Departments. SEC. 3. There shall be two departments of the Supreme Court, denominated respectively Department One and Department Two. The Chief Justice shall assign four of the associate judges to each department and such assignment may be changed by him from time to time: *Provided*, That the associate judges shall be competent to sit in either department and may interchange with one another by agreement among themselves, or if no such agreement be made, as ordered by the Chief Justice. The Chief Justice may sit in either department and shall preside when so sitting, but the judges assigned to each department shall select one of their number as presiding judge. Each of the departments shall have the power to hear and determine causes, and all questions arising therein, subject to the provisions in relation to the court *en banc*. The presence of three judges shall be necessary to transact any business in either of the departments, except such as may be done at chambers, but one or more of the judges may from time to time adjourn to the same effect as if all were present, and a concurrence of three judges shall be necessary to pronounce a decision in each department: *Provided*, That if three do not concur, the cause shall be reheard in the same department or transmitted to the other department, or to the court *en banc*.

*en banc.*

Chief Justice to apportion business. SEC. 4. The Chief Justice shall from time to time apportion the business to the departments, and may, in his discretion, before a decision is pronounced, order any cause pending before the court to be heard and determined by the court *en banc*. When a cause has been allotted to one of the departments and a decision pronounced therein, the

Chief Justice, together with any two associate judges, may order such cause to be heard and decided by the court *en banc*. Any four judges may, either before or after decision by a department, order a cause to be heard *en banc*.

The decision of a department, except in cases otherwise ordered as hereinafter provided, shall not become final until thirty days after the filing thereof, during which period a petition for rehearing, or for a hearing *en banc*, may be filed, the filing of either of which, except as hereinafter otherwise provided, shall have the effect of suspending such decision until the same shall have been disposed of. If no such petition be filed the decision of a department shall become final thirty days from the date of its filing, unless during such thirty-day period an order for a hearing *en banc* shall have been made: *Provided*, That if for any cause the Chief Justice or a majority of the department rendering any decision shall be of the opinion that such decision should go into effect prior to thirty days after its filing, it shall go into effect, and a judgment issue thereon, any time after its filing and prior to such thirty-day period, upon being in writing approved by the Chief Justice and any two associate judges who took no part in rendering such decision. The effect of granting a petition for a rehearing, or of ordering a cause once decided by department to be heard *en banc*, shall be to vacate and set aside the decision. Whenever a decision shall become final, as herein provided, a judgment shall issue thereon.

Causes may  
be ordered  
before court  
*en banc*.

SEC. 5. The Chief Justice, or any four judges, may convene the court *en banc* at any time, and the Chief Justice shall be the presiding judge of the court when so convened. The presence of five judges shall be necessary to transact any business, and a concurrence of five judges present at the argument shall be necessary to pronounce a decision in the court *en banc*: *Provided*, That if five of the judges so present do not concur in a decision, then reargument shall be ordered and all the judges qualified to sit in the cause shall hear the argument, but to render a decision a concurrence of five judges shall be necessary;

Court  
*en banc*.

Quorum.

and every decision of the court *en banc* shall be final except in cases in which no previous decision has been rendered in one of the departments, and in such cases the decision of the court *en banc* shall become final thirty days after its filing, unless during such period a petition for rehearing be filed. The filing of such petition within such period shall have the effect of suspending the decision until disposed of by the concurrence of five judges: *Provided*, That if for any cause five judges shall be of the opinion that such decision should go into effect prior to thirty days after its filing, it shall go into effect any time after its filing and prior to such thirty-day period upon being in writing approved by six judges of such court. Whenever a decision shall become final as herein provided, a judgment shall issue thereon.

Acting chief  
justice.

SEC. 6. In cases of the absence of the Chief Justice, or his inability to act, the judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall perform the duties and exercise the powers of the Chief Justice during such absence or inability to act. In case there shall be two or more judges having in like manner the same short term, the other judges of the Supreme Court shall determine which of them shall perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

Court open,  
when.

SEC. 7. The Supreme Court shall always be open for the transaction of business except on non-judicial days. It shall hold regular sessions for the hearing of causes *en banc*, and in each of its departments, at the capital of the state at the respective times now provided by law for holding terms of the Supreme Court. Special sessions at the same place may be held at such other times as may be prescribed by the judges of such court.

Rules.

SEC. 8. The Supreme Court may from time to time institute such rules of practice and prescribe such forms of process to be used in such court and in the court *en banc* and each of its departments, and for the keeping of the dockets, records and proceedings, and for the regulation of

such court, including the court *en banc* and in departments, as may be deemed most conducive to the due administration of justice.

SEC. 9. Until the organization of the court into separate departments shall have been consumated, and the transaction of business commenced in one or both of such departments, all causes and matters theretofore submitted to the court shall be disposed of by the court independent of the provisions of this act pertaining to such court *en banc* and in departments. Present cases.

SEC. 10. An emergency is declared to exist, and this act shall take effect immediately. Emergency.

Passed by the Senate February 10, 1909.

Passed by the House February 24, 1909.

Approved February 26, 1909.

## CHAPTER 25.

[H. B. 102.]

### RELATING TO STATE ROADS.

AN ACT to amend section two of an act of the Legislature of the State of Washington, entitled "An act providing for the establishment, construction and maintenance of state roads and making appropriations for state roads heretofore established," approved March 13th, 1907.

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

SECTION 1. That section two, of an act of the Legislature of the State of Washington, entitled "An act providing for the establishment, construction and maintenance of state roads, and making appropriations for state roads heretofore established," approved March 13th, 1907, be and the same is hereby amended to read as follows:

[Am'd. § 2,  
ch. 151, p.  
309, L. '07]

Sec. 2. No road shall hereafter be established as a state road until the same shall have been examined and if necessary surveyed, and shall have been found to be feasible and of public utility, and all facts concerning its feasibility and State road,  
how  
established.