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REGULAR SESSION, THIRTY-FOURTH LEGISLATURE
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MARGINAL NOTES AND INDEX

By
RICHARD O. WHITE

Code Reviser

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CHAPTER 37.

[S. B. 11.]

CIVIL PROCEDURE—COURT RULES.

AN ACT relating to civil procedure and repealing section 37, chapter 61, Laws of 1893, and RCW 4.88.290; and declaring an emergency.

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

SECTION 1. Section 37, chapter 61, Laws of 1893, and RCW 4.88.290 are each repealed. Repeal.

SEC. 2. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Emergency.

Passed the Senate January 21, 1955.

Passed the House February 1, 1955.

Approved by the Governor February 23, 1955.

CHAPTER 38.

[S. B. 8.]

COURTS OF RECORD.

AN ACT relating to courts of record; amending section 4, page 322, Laws of 1889-90; repealing section 1, chapter 15, Laws of 1937 and section 2, chapter 119, Laws of 1911 and section 2, chapter 5, Laws of 1893 and section 3, page 321, Laws of 1899-90, and enacting RCW 2.04.100; amending section 5, page 342, Laws of 1889-90, and RCW 2.08.010; amending section 8, chapter 125, Laws of 1951, and RCW 2.08.069; repealing section 2, chapter 15, Laws of 1937, and section 4, page 342, Laws of 1889-90, and enacting RCW 2.08.120; amending section 1, chapter 37, Laws of 1943, and RCW 2.12.040; amending section 2, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.020; amending section 3, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.030; amending section 4, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.040; amending section 5, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.050; amending section 6, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.060; amending section 1, chapter 54, Laws of 1891, and RCW 2.28.010; amending

section 6, chapter 54, Laws of 1891, and RCW 2.28.060; amending section 11, chapter 54, Laws of 1891, and RCW 2.28.140; amending section 12, chapter 54, Laws of 1891, and RCW 2.28.150; repealing sections 1, 12, 15 and 18 of "An Act relating to the organization, powers and duties of the supreme court, and declaring an emergency to exist", chapter XI, Laws of 1889-90; repealing sections 16 and 18 of "An Act in relation to the organization, powers and duties of the Superior Courts, and declaring an emergency", chapter XI, Laws of 1889-90; repealing sections 14 and 15, chapter 54, Laws of 1891; repealing section 28, chapter 146, Laws of 1891; repealing sections 1 and 2, chapter 5, Laws of 1893; repealing sections 1, 2 and 3, chapter 168, Laws of 1901; and repealing chapter 5, Laws of 1905; and declaring an emergency.

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

Amendment.

SECTION 1. Section 4 of "AN ACT relating to the organization, powers and duties of the Supreme Court, and declaring an emergency to exist," approved December 23, 1889; Laws of 1889-90, page 322, uncodified, is amended to read as follows:

Supreme court; accommodations and supplies.

If proper rooms in which to hold the court, and for the accommodation of the officers thereof, are not provided by the state, together with attendants, furniture, fuel, lights, record books and stationery, suitable and sufficient for the transaction of business, the court, or any three justices thereof, may direct the clerk of the supreme court to provide the same; and the expense thereof, certified by any three justices to be correct, shall be paid out of the state treasury out of any funds therein not otherwise appropriated. Such moneys shall be subject to the order of the clerk of the supreme court, and be by him disbursed on proper vouchers, and accounted for by him in annual settlements with the state auditor.

Repeal; enactment.

SEC. 2. Section 1, chapter 15, Laws of 1937; section 2, chapter 119, Laws of 1911; section 2, chapter 5, Laws of 1893; and section 3, page 321, Laws of 1889-90, being "AN ACT relating to the organization,

powers and duties of the Supreme Court * * * ,” approved December 23, 1889, are each repealed; and RCW 2.04.100 is enacted to read as follows:

If a vacancy occur in the office of a judge of the supreme court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold the office for the remainder of the unexpired term.

Supreme
court;
vacancies.

SEC. 3. Section 5 of “AN ACT in relation to the organization, powers and duties of the Superior Courts, * * * ,” approved March 27, 1890, being Laws of 1889-90, page 342, section 5; and RCW 2.08.010 are each amended to read as follows:

Amendment.

The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three hundred dollars, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce and for annulment of marriage, and for such special cases and proceedings as are not otherwise provided for; and shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court, and shall have the power of naturalization and to issue papers therefor. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition and writs of habeas corpus on petition by or on behalf of any person in actual custody in their respective

Superior
courts;
original
jurisdiction.

Power to issue
certain writs.

counties. Injunctions and writs of prohibition and of habeas corpus may be issued on legal holidays and nonjudicial days.

Amendment.

SEC. 4. Section 8, chapter 125, Laws of 1951, and RCW 2.08.069 are each amended to read as follows:

Superior courts; additional judges.

Unless otherwise provided, upon the taking effect of any act providing for additional judges of the superior court and thereby creating a vacancy, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

Repeal; enactment.

SEC. 5. Section 2, chapter 15, Laws of 1937; and section 4, page 342, Laws of 1889-90, being "AN ACT in relation to the organization, powers and duties of the Superior Courts * * *," approved March 27, 1890 are each repealed; and RCW 2.08.120 is enacted to read as follows:

Superior courts; vacancies.

If a vacancy occurs in the office of judge of the superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

Amendment.

SEC. 6. Section 1, chapter 37, Laws of 1943, and RCW 2.12.040 are each amended to read as follows:

Retired judge accepting judicial office.

If any retired judge shall accept an appointment or an election to a judicial office, he shall be entitled to receive the full salary pertaining thereto, and his retirement pay under this chapter shall be suspended during such term of office and his salary then received shall be subject to contribution to the judges' retirement fund as provided in this chapter.

SEC. 7. Section 2, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.020 are each amended to read as follows: Amendment.

The judges shall elect from their number a president, who shall be called president judge, and a secretary, who shall hold their offices from the date of one annual meeting of the association to the next. Association of superior court judges; president judge and secretary.

SEC. 8. Section 3, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.030 are each amended to read as follows: Amendment.

The association shall adopt a plan looking to the equitable distribution of the work of the superior courts of the state so that congestion in trial calendars shall be abolished. To this end the judge of each county or judicial district in the state having control of the trial calendar shall, not less than once each month, in writing, advise the president judge of the condition of the trial calendar of his county or district and of any other conditions requiring another judge. It shall be the duty of the president judge to direct any judge whose calendar in his judgment will permit, to hold court in any other county where congestion exists, or other conditions require, for such time as will make for the efficient functioning of the superior courts of the state. It shall be the duty of every judge to obey such directions of the president judge, unless excused by him for sufficient cause. Association of superior court judges; relief of trial calendar congestion.

SEC. 9. Section 4, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.040 are each amended to read as follows: Amendment.

At its annual meetings, pursuant to Section 24, Article IV of the state Constitution, the association shall have power to establish uniform rules for the government of the superior courts, which rules may be amended from time to time. Association of superior court judges; uniform rules.

Amendment.

SEC. 10. Section 5, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.050 are each amended to read as follows:

Association of superior court judges; meetings.

The association shall meet annually in July or August, at which meeting officers shall be chosen for the ensuing year and such other business transacted as may properly come before the association.

Amendment.

SEC. 11. Section 6, chapter 58, Laws of 1933, Extraordinary Session, and RCW 2.16.060 are each amended to read as follows:

Association of superior court judges; expenses for attending meetings.

(1) For attendance upon any annual meeting a judge shall be entitled to receive from the state the amount of his actual traveling and living expenses.

Expenses of visiting judges.

(2) For attendance while holding court in any other county or district pursuant to direction of the president judge, a judge shall be entitled to receive from the county to which he is sent the amount of his actual traveling and living expenses.

(3) Upon presenting to the state auditor a statement signed by himself and approved by the president judge, showing in separate items his traveling and living expenses for attendance upon the annual meeting, the state auditor shall draw a warrant on the general fund for the amount of such statement and deliver it to such judge.

Amendment.

SEC. 12. Section 1, chapter 54, Laws of 1891, and RCW 2.28.010 are each amended to read as follows:

Courts of justice; powers.

Every court of justice has power—1. To preserve and enforce order in its immediate presence. 2. To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority. 3. To provide for the orderly conduct of proceedings before it or its officers. 4. To compel obedience to its judgments, decrees, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein. 5. To control, in furtherance of justice, the conduct of its ministerial officers, and of

all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto. 6. To compel the attendance of persons to testify in an action, suit or proceeding therein, in the cases and manner provided by law. 7. To administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

SEC. 13. Section 6, chapter 54, Laws of 1891, and RCW 2.28.060 are each amended to read as follows: Amendment.

Every judicial officer has power—(1) To preserve and enforce order in his immediate presence and in the proceedings before him, when he is engaged in the performance of a duty imposed upon him by law. (2) To compel obedience to his lawful orders as provided by law. (3) To compel the attendance of persons to testify in a proceeding pending before him, in the cases and manner provided by law. (4) To administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and the performance of his duties. Judicial officers; powers.

SEC. 14. Section 11, chapter 54, Laws of 1891, and RCW 2.28.140 are each amended to read as follows: Amendment.

If the proper authority neglects to provide any superior court with rooms, furniture, fuel, lights and stationery suitable and sufficient for the transaction of its business and for the jury attending upon it, if there be one, the court may order the sheriff to do so, at the place within the county designated by law for holding such court; and the expense incurred by the sheriff in carrying such order into effect, when ascertained and ordered to be paid by the court, is a charge upon the county. Superior courts; accommodations and supplies.

Amendment. SEC. 15. Section 12, chapter 54, Laws of 1891, and RCW 2.28.150 are each amended to read as follows:

Implied powers of courts and judicial officers.

When jurisdiction is, by the Constitution of this state, or by statute, conferred on a court or judicial officer all the means to carry it into effect are also given; and in the exercise of the jurisdiction, if the course of proceeding is not specifically pointed out by statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of the laws.

Repeal. SEC. 16. The following acts and parts of acts are each repealed:

(1) Sections 1, 12, 15, and 18 of "AN ACT relating to the organization, powers and duties of the supreme court, and declaring an emergency to exist." approved December 23, 1889. (Chapter XI, "Courts", Laws of 1889-90, page 321.)

(2) Sections 16 and 18 of "AN ACT in relation to the organization, powers and duties of the Superior Courts, and declaring an emergency."; approved March 27, 1890. (Chapter XI, "Courts", Laws of 1889-90, page 341.)

(3) Sections 14 and 15, chapter 54, Laws of 1891.

(4) Section 28, chapter 146, Laws of 1891.

(5) Section 1, chapter 5, Laws of 1893.

(6) Sections 1, 2, and 3, chapter 168, page 345, Laws of 1901 (erroneously numbered in session laws as CXLVIII [148]).

Savings. (7) Chapter 5, Laws of 1905.

Such repeals shall not be construed as affecting any existing rights acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder.

Emergency. SEC. 17. This act is necessary for the immediate preservation of the public peace, health and safety,

the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 21, 1955.

Passed the House February 1, 1955.

Approved by the Governor February 23, 1955.

CHAPTER 39.

[S. B. 9.]

INTOXICATING LIQUOR—EXEMPTIONS— SEARCH AND SEIZURE.

AN ACT relating to intoxicating liquors; amending section 32, chapter 62, Laws of 1933, Extraordinary Session and RCW 66.12.010; revising and amending section 33, chapter 62, Laws of 1933, Extraordinary Session, section 3, chapter 216, Laws of 1943, and RCW 66.32.010, 66.32.020, 66.32.030, 66.32-.040, 66.32.050, 66.32.060, 66.32.070, and 66.32.080; and declaring an emergency.

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

SECTION 1. Section 32, chapter 62, Laws of 1933, Extraordinary Session and RCW 66.12.010 are each amended to read as follows: Amendment.

(RCW 66.12.010) Nothing in this title shall apply to wine or beer manufactured in any home for consumption therein, and not for sale. Exempt from title.

SEC. 2. Section 33, chapter 62, Laws of 1933, Extraordinary Session, and section 3, chapter 216, Laws of 1943, amendatory thereof, (heretofore divided and codified as RCW 66.32.010, 66.32.020, 66.32.030, 66.32-.040, 66.32.050, 66.32.060, 66.32.070 and 66.32.080) are divided and amended as set forth in sections 3 through 10 of this act. Division and amendment.

SEC. 3. (RCW 66.32.010) Except as permitted by the board, no liquor shall be kept or had by any person within this state unless the package in which the liquor was contained had, while containing that Package to be sealed.