

GARNISHMENT.

CHAPTER 82.

[H. B. 115.]

PRESCRIBING THE MODE OF PROCEDURE.

AN ACT Providing for Garnishment Proceedings in Justice's Court, and Prescribing the Mode of Procedure Therein.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MODE OF PROCEDURE.] That when any creditor shall be entitled to proceed by garnishment, as prescribed by sections 5382 to 5402 inclusive, of the Revised Codes of North Dakota, such proceedings may be had in any justice's court properly having jurisdiction of the subject matter, and the mode of procedure therein, and the law applicable thereto, when not otherwise prescribed or provided by this act, shall conform as nearly as practicable to the provisions of said sections, the justice for the purposes of this act, unless otherwise prohibited by law, having the powers in said sections conferred upon the "judge" and "clerk of court," and the powers and duties of sheriffs being extended to constables; *Provided*, that in a justice's court no real property shall be subject to garnishment, and no garnishment proceedings can be had when the amount for which judgment is demanded of the defendant is less than \$10, exclusive of costs, and no judgment shall be rendered against a garnishee where the judgment against the defendant is less than \$10, exclusive of costs, nor where the indebtedness of the garnishee to the defendant, or the value of the property of the defendant in his hands or under his control is less than \$10, and no garnishee shall be held liable to a plaintiff in a greater sum than two hundred dollars, exclusive of costs.

§ 2. FORM OF SUMMONS.] The garnishee summons shall be issued by the justice upon like affidavit as in district court, and shall be substantially in the following form:

State of North Dakota,	}	In Justice's Court,
County of.....		ss. Before.....
A. B., Plaintiff,		Justice of the Peace.
<i>vs.</i>		
C. D., Defendant, and		
E. F., Garnishee.		

The State of North Dakota to the said Garnishee:

You are hereby summoned pursuant to the annexed affidavit, as a garnishee of the defendant C. D., and required to appear before me at in the of on the day of A. D. 189....., at o'clock in the noon of said day and answer upon oath according to law whether you are indebted to or have in your possession or under your control any personal property belonging to such defendant, or in lieu of so appearing before me on said day you may at any time prior thereto file with me your sufficient affidavit as provided in sections 5389 and 5390. of the Revised Codes of North Dakota, and in case of your failure to so appear or to file such affidavit you will be liable to further proceedings according to law; of which the said defendant will also take notice.

Justice of the Peace.

To be served not later than -----

----- N. D.

§ 3. HOW SUMMONS SHALL BE SERVED.] The garnishee summons and annexed affidavit shall be served as provided in sections 5385 and 5386 of the Revised Codes, except that the service upon the garnishee must be made not less than seven nor more than fifteen days before the time specified in the garnishee summons for his appearance before the justice, and the service upon the defendant or his attorney must be made within four days after service upon the garnishee. It shall not be necessary for the plaintiff to serve upon the garnishee any copy of the complaint in the action. When the garnishee summons is served upon the garnishee he may demand his traveling fees and fee for one day's attendance, and if the same be not paid or tendered to him he shall not be obliged to appear and answer or file any affidavit or be otherwise liable as garnishee in the action. Such fees shall be the same as witness fees in justice's court.

§ 4. FILING OF AFFIDAVIT.] If at the time specified in the garnishee summons the garnishee shall appear before the justice in person he shall be examined upon oath concerning his indebtedness or liability to the defendant substantially as outlined in section 5390 of the Revised Codes, except that no disclosure of real property need be made, and the substance of his examination, taken down in writing by the justice and subscribed by the garnishee upon oath, shall be equivalent to and have the same effect as the affidavit provided for in sections 5389 or 5390, of the Revised Codes, as the case may be. If the garnishee before the time fixed in the summons for him to appear and answer shall make and file with the justice his affidavit substantially as provided for in sections 5389 or 5390, as the case may be, such affidavit shall be in lieu of and equivalent to an appearance and shall have the same effect as provided in such last named sections.

§ 5. WHEN COURT MAY RENDER JUDGMENT.] If any garnishee

having been duly summoned, unless he shall have demanded his witness fees and the same shall not have been tendered, shall fail to appear and answer or to file his affidavit as required by the garnishee summons the court may render judgment against him as provided in section 5391 of the Revised Codes.

§ 6. SHALL SERVE WRITTEN NOTICE.] A plaintiff electing to take issue upon the affidavit of the garnishee must within ten days from the date fixed for appearance and answer serve written notice to that effect upon the garnishee, whereupon the proceeding may be as provided in section 5393.

§ 7. GARNISHEE'S APPEARANCE.] If a defendant desire to defend the garnishment proceedings upon the ground that the indebtedness or property involved is exempt from execution, as contemplated in section 5395, such defense must be interposed at the time fixed for the garnishee's appearance or within three days thereafter, unless the justice, upon good cause shown, shall grant a longer time.

Approved March 9th, 1897.

GAME AND FISH.

CHAPTER 83.

[S. B. 138.]

RELATING TO PROTECTION OF GAME AND FISH.

AN ACT to Amend Sections 1642, 1643, 1644, 1645, 1647, 7677, 7678 and 7679 of the Revised Codes of North Dakota, Relating to the Protection of Game and Fish and the Issuing of Permits to Hunt, and Prescribing Penalties for Violations of the Provisions Thereof; and Enacting Other Provisions Relating Thereto, and Providing Penalties for Violations Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That sections 1642, 1643, 1644, 1645, 1647, 7677, 7678 and 7679 of the Revised Codes of North Dakota be and the same are hereby amended so as to read as follows:

§ 1642. GAME WARDEN—HOW APPOINTED—BOND—DUTIES.] There shall be appointed by the Governor a State game warden, whose term of office shall be two years, commencing on the first Tuesday in April next succeeding his appointment and until his successor is appointed and qualified. He shall give a bond to be approved by the Governor, in the sum of two thousand dollars, conditioned for the faithful performance of his duties. It is the duty of the State game warden to superintend and aid in the enforcement of all laws of this State for the preservation of game