

CHAPTER 247.

[Published April 11, 1862.]

AN ACT to appropriate to the institution for the education of the deaf and dumb, the sum of (\$12,200) twelve thousand two hundred dollars.

(See supplement to local laws.)

CHAPTER 248.

[Published April 10, 1862.]

AN ACT to declare certain days legal holidays.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

Christmas and
thanksgiving.

SECTION 1. The twenty-fifth day of December, the first day of January, and any day appointed by the governor of this state or the president of the United States, as a day of public thanksgiving, are hereby declared to be holidays.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 7, 1862.

CHAPTER 249.

[Published May 3, 1862.]

AN ACT to amend chapter 134 of the revised statutes, entitled "of executions and proceedings supplementary thereto."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

Affidavit for garnishee, and service of the same.

SECTION 1. If, after the issuing of an execution, the person in whose favor the same is issued, or some one in his behalf, shall make an affidavit stating that he verily believes that any other person or corporation

(naming him or it) has property, credits or effects in his or its hands or possession, belonging to the judgment debtor, or that he or it is indebted to such judgment debtor, in an amount exceeding ten dollars, and shall deliver such affidavit to the officer having the execution, if such officer cannot levy upon such property and get the possession thereof, he shall serve such affidavit upon such person or corporation, by giving him or its president, secretary, treasurer or principal agent, a copy thereof, with a written notice to appear before a judge or a court commissioner of the county in which such person or corporation is served, on some day to be specified in such notice, not less than six nor more than twenty days from the time of such service, to answer, under oath, all such questions as shall be put to him touching his liability or the liability of such corporation, as garnishee of such judgment debtor.

SECTION 2. From the day of such service, the person or corporation so notified as garnishee, shall stand liable to such judgment creditor in whose favor such execution has been issued, to the amount of the property, moneys and credits in his or its hands or possession, and debts due or to become due from the garnishee to such judgment debtor; and the person so served with notice, shall attend before the judge or commissioner, in accordance with said notice, and answer, under oath, all questions put to him touching the property, credits and effects of the judgment debtor in said garnishee's possession, or within his knowledge, and as to all debts due or to become due from such garnishee to such judgment debtor.

Liability of garnishee.

SECTION 3. If the person served with notice, as aforesaid, does not appear pursuant to such notice, the judge or court commissioner may compel his appearance by attachment; and on being brought before him, the judge or court commissioner may proceed to examine such person, or he may, at the request of the person in whose favor the execution was issued, report to the court from which such execution was issued, that such person, so served with notice, failed to appear pursuant thereto, and that he was so attached; and the court may punish such person by fine or imprisonment, or both, at the discretion of the court; and if any person, on his examination before the judge or court commissioner, shall refuse to answer all proper questions propounded to

Garnishee may be compelled to appear by attachment.

If garnishee refuse to answer he may be fined and judgment rendered against him.

him, or to obey any order of such judge or court commissioner, said judge or court commissioner shall report the same to the court from which the execution was issued, and the court may punish such person by fine or imprisonment, or both, at the discretion of the court; and the court may also render a judgment against such garnishee for the amount of the execution, with costs.

When judgment creditor entitled to judgment against garnishee.

SECTION 4. In case the officer having the attachment specified in the two last [last two] sections, is unable to arrest the person against whom said attachment is issued, the person in whose favor the execution has been issued, shall be entitled to a judgment against the garnishee, for a sum not exceeding the amount of the damages, costs and interest for which such execution was issued.

Garnishee may appear and answer at any time before judgment.

SECTION 5. If the person served with the notice shall fail to appear and answer at the time and place specified in the notice served upon him, he may afterwards appear and answer before the judge or commissioner named in such notice, at any time before final judgment against him, by giving to the person in whose favor the execution was issued, or to his attorney, a notice of at least six and not more than ten days, of the time when he will so appear and answer: *provided*, that such judge or commissioner, before taking his answer, may, at his discretion, require him to pay all costs that have occurred [accrued] in the garnishee suit, up to the time such notice is given.

Proviso.

Answer to be reduced to writing and filed.

SECTION 6. It shall be the duty of the judge or commissioner before whom any person shall be examined under the provisions of this act, to reduce the answer of such person to writing, and to file the same in the office of the clerk of the court from which the execution was issued.

When garnishee to deliver property, &c.

SECTION 7. If it appear from the answer, that the garnishee was indebted to the judgment debtor or judgment debtors, or either of them, or that the garnishee had property in his or its hands or possession, belonging to such judgment debtor or judgment debtors, or either of them, at the time the notice to appear and answer was served, such garnishee shall forthwith deliver such property or pay the amount of his or its indebtedness to the sheriff or other proper officer having such execution, who shall proceed therewith according to law.

SECTION 8. In case the garnishee pays over the money due from him to the judgment debtor, or delivers the property in his hands belonging to the judgment debtor, in the manner provided for in the last section, he or it shall be no longer liable therefor to the judgment debtor; and such payment or delivery shall be a bar to any action that may be brought against such garnishee by such judgment debtor or his assignee, to recover the same.

Delivery of property a bar to action by judgment debtor.

SECTION 9. If the garnishee shall neglect to deliver over any property in his or its hands or possession, or to pay over any money due to the judgment debtor, in the cases mentioned in section seven of this act, the court may render judgment against the garnishee for the amount of his or its indebtedness to the judgment debtor, or for the value of such property; but the damages in such judgment shall not exceed the amount due on the execution for damages, interest and costs; or the court, in its discretion, at any time after the garnishee has answered, may render a judgment against the garnishee, directing and requiring him or it to deliver to the sheriff any property in the possession of the garnishee, or under his or its control, belonging to the judgment debtor.

If garnishee neglect to deliver property, judgment may be rendered against him.

SECTION 10. If it appear from the answer of the garnishee or otherwise, that the garnishee holds the title of any real estate or any interest therein, in trust for the judgment debtor, or for his benefit, the garnishee shall convey the same to the sheriff, and the sheriff shall sell and dispose of the same under the direction of the court from which the execution issued, in the manner provided by law and the rules and practice of the court, for the sale of real estate by receivers appointed under proceedings supplemental to execution; and the court may, by its judgment, pass the title to any such real estate situate within this state, in case such garnishee refuses to convey the same.

Conveyance and sale of real estate of judgment debtor held by garnishee.

SECTION 11. No action shall be commenced by the judgment debtor or his assignee, against any such garnishee, from the time such garnishee is summoned to appear and answer, until he has an opportunity to appear and answer; and in case an action is pending for the recovery of any such money or property, at the time of the service of any such notice, the garnishee may obtain an order, staying proceedings in such action un-

No action by judgment debtor against garnishee until his answer, &c.

Proviso. til the garnishee can have an opportunity to appear and answer, or for such further time as the officer making such order shall deem proper: *provided, however*, that a judge or court commissioner may, upon the application of the judgment debtor or his assignee, upon cause being shown therefor to the satisfaction of such judge or court commissioner, make an order permitting him to commence an action against the garnishee forthwith.

When more than one judgment debtor, &c. SECTION 12. When there is more than one judgment debtor against whom the execution is issued, the garnishee shall be liable to pay over any money due, and deliver property belonging to either or any of such judgment debtors.

When judgment may be rendered in favor of garnishee. SECTION 13. If the garnishee, in his or its answer, deny all indebtedness or liability to the judgment debtor or judgment debtors, or any of them, he or it shall recover judgment against the judgment creditor in the execution, for his fees for travel and attendance, which shall be the same as those allowed to witnesses, unless the judgment creditor shall elect to have a trial on the issue formed by such answer.

Affidavit to be complaint, &c. SECTION 14. The affidavit mentioned in the first section of this act, shall be deemed the complaint in the action against the garnishee, and the answer of the garnishee, taken on the examination, shall be the answer in such action.

Trial of issues between judgment creditor and garnishee. SECTION 15. In case the judgment creditor is not satisfied with the answer of the garnishee, and shall elect to have a trial on the issue formed by such answer, such issue between the judgment creditor and garnishee shall be tried, and judgment thereon rendered, and costs awarded, and execution issued, in the same manner and with the like effect as in other personal actions, except that judgment against the garnishee shall, exclusive of costs in the garnishee suit, not be for a greater amount than the amount due on the judgment on which the execution was issued.

How judgment creditor may proceed against garnishee if he fail to deliver property. SECTION 16. In case the answer of the garnishee shall be satisfactory to the judgment creditor, and it shall appear by it that the garnishee was indebted to the judgment debtor, or had in his possession property of the judgment debtor, which has not been paid over or delivered to the officer, as provided in section seven of this act, the court shall render judgment against the

garnishee according to the merits of the case, in the manner provided in section nine of this act.

SECTION 17. If it shall appear upon the answer of the garnishee, or from the finding of the court or jury on the trial of the issue, that the garnishee is liable to deliver to the judgment debtor certain specific property, or to pay him any money at a future day, unless the payment of such money is secured by a negotiable note, the court may render a judgment against the garnishee, without costs, requiring him to deliver such property, or to pay such money over to the sheriff, at such time as he may be liable to deliver such property or pay such money.

Proceedings where garnishee liable to pay at future day, &c.

Approved April 5, 1862.

CHAPTER 250.

[Published April 10, 1862.]

AN ACT to amend section one of chapter 89 of the general laws of 1858, entitled "an act concerning exemption of property from execution."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

SECTION 1. Section one of chapter eighty-nine of the general laws of 1858, approved May 13, 1858, and entitled "an act concerning exemption of property from execution," is hereby amended so as to read as follows : "Section 1. All fire engines, apparatus and equipments, including hose, hose carts and hooks and ladders, belonging to, or which may hereafter belong to any town, city or village in this state, and which are or may be kept and used for the protection of property in such town, city or village from fire, together with the engine houses and hook and ladder houses for the protection of the same, and the lot or lots on which such engine and hook and ladder houses may be situated, when owned by any such town, city or village, and any lot or lots owned, used and occupied by any such town, city or village for corporate purposes, shall be exempt from seizure or sale upon any attachment, execution or

Fire engines, &c., exempt from execution.