

if the defendant had been returned summoned and had failed to appear.

39. Any person making the affidavit, and exhibiting the proofs and vouchers necessary to authorize an attachment to be issued from the Circuit Court against a non-resident or absconding debtor, may have an attachment issued by a justice of the peace against such debtor, if the cause of action does not exceed one hundred dollars.

40. Such attachment shall be returnable before the justice who issued the same, upon a day certain to be named therein, not less than twenty nor more than thirty days from the date of the issuing thereof.

41. The plaintiff at the time of issuing the attachment, shall give notice by setting up at three or more of the most public places in the election district or ward in which such attachment may issue, at least ten days before the return day thereof, an affidavit of the truth of his claim, together with a copy of such claim, and also a copy of such attachment.

42. If the defendant, or the garnishee in whose hands property may be attached, shall not show cause to the contrary, the justice may condemn such property; *Provided*, he is satisfied by the oath of the plaintiff or by other proof, that the notice required above has been given.

43. The plaintiff, in an attachment, before execution on any judgment of condemnation shall be issued, shall give bond to the defendant in such penalty as the justice of the peace shall direct, not less than double the amount of the judgment of condemnation, with good and sufficient security, to be approved by the said justice, and conditioned to make restitution of the property so condemned, or the value thereof; and to pay such damages as may be awarded to the defendant, if the defendant shall at any time within twelve months and a day from the date of issuing the attachment, appear, either in person or by his agent, before the justice issuing such attachment, or before some other justice of the same county, and make it appear that the plaintiff has satisfied the said debt, or show that it ought not to be paid, or that the said defendant was not indebted to the plaintiff at the time of issuing said attachment.