

so drawn and such clerk of the court shall make out and record in a book to be used for that purpose, a list of the names returned to him, under the provisions of this act; but the failure of the officers of any township, city or town to perform their duty as hereinbefore provided, shall not invalidate said list made up by the clerk of the district court.

§ 5. NUMBER OF NAMES TO BE KEPT AT MAXIMUM.] That section nine of said chapter seventy-two, be and the same is hereby amended by inserting after the word "township" in said section the words "the board of aldermen, or the city council of any city, or the board of trustees of any town."

§ 6. That this act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

JURISDICTION OF DISTRICT COURT.

CHAPTER 81.

AN ACT To Amend Section Thirty-one of the Code of Civil Procedure.

Be it Enacted by the Legislative Assembly of the Territory of Dakota.

§ 1. ALWAYS OPEN FOR CERTAIN PURPOSES.] That section thirty-one of the Code of Civil Procedure be and it is hereby amended so as to read as follows:

§ 31. These courts are always open for the purpose of hearing and determining all actions, special proceedings, motions and applications of whatever kind or character, and whether of a civil or criminal nature, arising under the laws of the Territory, and of which the district courts have jurisdiction, original or appellate, except issues of fact in civil and criminal actions, and all such actions, special proceedings, motions and applications may be heard and determined at any place within the judicial district in which is situated the county or judicial subdivision wherein the same is brought or is pending; but issues of fact in civil and criminal actions must be tried in the county or judicial subdivision in which the same is brought, or to which the place of trial is changed by order of the court upon the written consent of the

parties to such action, or upon the grounds now or hereafter provided by law; *Provided, however,* Nothing in this section contained shall be construed to prevent the judge of any district court from making any order at chambers at any place within the Territory in any matter properly before him; and it is further *Provided*; That nothing in this section contained shall be construed to invalidate any order or judgment heretofore made or rendered by the court out of term, under or by virtue of section thirty-one, Code of Civil Procedure; but all such orders and judgments shall be and remain of the same force and effect as if such order or judgment had been made or rendered and entered at a regular term of the district court.

Approved, March 11, 1887.

JUSTICES' COURT.

CHAPTER 82.

CHANGE OF VENUE IN CRIMINAL PROCEEDINGS.

AN ACT To Amend Section 112, of the Justices' Code of the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. CHANGE OF VENUE.] That section 112, of the Justices' Code of the Territory of Dakota, be and the same is hereby amended to read as follows: In criminal proceedings before a justice of the peace, a change of the place of trial or examination may be had at any time before such trial or examination commences, when it appears from the affidavit of the defendant that he has reason to believe and does believe, that he cannot have a fair and impartial trial or examination before the justice about to try or examine such case, by reason of the bias or prejudice of such justice; whereupon the cause shall be transferred to the next nearest justice of the same county, unless the parties otherwise agree; *Provided*, That a change of the place of trial or examination under the provisions of this section can be had but once.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.