

CIVIL PROCEDURE

CHAPTER 82.

[S. B. No. 218—Overton]

REFERENCES AND TRIALS BY REFEREES.

AN ACT To Amend and Re-enact Section 7047 of the Revised Codes of North Dakota for the year 1905, Relating to References and Trials by Referees.

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

§ 1. AMENDMENT.] Section 7047 of the Revised Codes of 1905, relating to references and trials by referees is amended and re-enacted to read as follows:

§ 7047. REFERENCE WITHOUT CONSENT.] When the parties do not consent to the reference the Court may upon the application of either party or of its own motion direct a reference in the following cases:

1. When the trial of an issue of fact will require the examination of a long account on either side, in which case the referee may be directed to hear and decide the whole issue or to report upon any specific question of fact therein; or,

2. When the taking of an account is necessary for the information of the court before judgment or for carrying a judgment or order into effect; or,

3. When a question of fact other than upon the pleadings shall arise upon motion or otherwise in any stage of the action; or,

4. In any other civil action or proceeding where a jury has been waived, or where the action or proceeding is triable to the Court or judge, when a note of issue has been filed and notice of trial served, or where one of the parties is in default in appearance or answer, on motion duly noticed made by either party, or in open court without notice when the action or proceeding is on the peremptory call calendar, when in the discretion of the Court it is deemed necessary to expedite the administration of justice. Provided that a referee appointed under this subdivision shall be a person versed in the law when the reference shall be a general reference of all the issues; and provided further that in cases referred under this subdivision the fees of the referee and stenographer shall be paid by the county wherein the action is triable, on order of the Court.

§ 2. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 3, 1911.

CHAPTER 83.

[H. B. No. 180—Stern]

WHEN FORCIBLE DETAINER IS MAINTAINABLE.

AN ACT Amending Section 8406 Revised Codes of 1905, Providing When an Action of Forcible Detainer is Maintainable.

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

§ 1. That section 8406 of the revised codes of 1905 shall be amended to read as follows:

§ 8406. FORCIBLE DETAINER, WHEN MAINTAINABLE.] When a party has by force, intimidation, fraud or stealth entered upon the prior actual possession of real property of another and detains the same.

2. When a party after entering peaceably upon real property turns out by force, threats or menacing conduct the party in possession; or

3. When he by force, or by menaces and threats of violence unlawfully holds and keeps the possession of any real property whether the same was acquired peaceably or otherwise; or

4. When a lessee in person or by subtenant holds over after the termination of his lease or expiration of his term, or fails to pay his rent for three days after the same shall be due; or

5. When a party continues in possession after a sale of the real property under mortgage, execution, order, or any judicial process, and after the expiration of the time fixed by law for redemption, or after the execution and delivery of a deed, or after the cancellation and termination of any contract for deed, bond for deed, or other instrument for the future conveyance of real estate or equity therein.

6. When a party continues wrongfully in possession after a judgment in partition or after a sale under an order or decree of a county court.

Approved March 3, 1911.