

THE LAWS

ACTIONS

CHAPTER 1.

(S. B. No. 1—Fraser.)

DISTRICT COURT—CHANGE OF JUDGES IN CIVIL ACTION.

An Act to Amend and Re-enact Section 7644 of the Compiled Laws of North Dakota for the Year 1913, Relating to Change of Judges in Civil Action in the District Court for Prejudice or Bias of Judge Thereof; Providing for the Calling in of Another Judge of Another Judicial District, and the Payment of His Expenses, and the Discharge of Jurors Therein.

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

Sec. 1. FOR PREJUDICE OR BIAS.) When either party to a civil action pending in any of the District Courts of the State shall after issue joined and before the opening of any regular, special or adjourned term at which the cause is to be tried file an affidavit stating that he has reason to believe and does believe that he cannot have a fair and impartial trial or hearing before the Judge of the District Court by reason of the prejudice or bias of such Judge, the Court shall proceed no further in the action and shall thereupon be disqualified to do any further act in said cause.

Sec. 2. AFFIDAVIT OF PREJUDICE. BY WHOM MADE.) Such affidavit shall be made by the party to the action desiring such change of Trial Judge or by his attorney.

Sec. 3. AFFIDAVIT TO BE FILED.) Such affidavit with two copies thereof shall be filed with the Clerk of the Court in which the action is pending. Upon the filing of such affidavit the Clerk shall immediately give notice thereof to the Judge so disqualified by delivering to him a copy of such affidavit. Said Clerk shall promptly forward to the Clerk of the State Supreme Court a copy of such affidavit.

Sec. 4. THE SUPREME COURT TO DESIGNATE TRIAL JUDGE.) The Supreme Court shall upon receipt of such affidavit of prejudice from the Clerk of the District Court designate a District Judge to act in the place and stead of the Judge disqualified.

Sec. 5. EXPENSES OF JUDGE.) Any Judge of the District Court designated by the Supreme Court to act in said cause

shall as soon as possible after receiving such notice from the Supreme Court and during said term, unless otherwise agreed by the parties to said action, proceed with the trial of said cause, first giving reasonable notice of the date of trial to the parties to said action or their attorneys, and the actual expenses of such incoming Judge shall upon the furnishing of a voucher therefor by said Judge to the State Auditor be approved for payment and paid to the State Treasurer out of the General Fund.

Sec. 6. JURORS NOT TO BE EXCUSED BY DISQUALIFIED JUDGE.) After the filing of such affidavit of prejudice with the Clerk of the District Court no juror shall be excused except for good cause shown to the incoming judge and by such incoming judge.

Sec. 7. NUMBER OF CHANGES ALLOWED.) Not more than one change shall be granted on the application of either party.

Approved January 27, 1919.

CHAPTER 2.

(H. B. No. 39—Wog.)

CERTIFICATION OF QUESTIONS OF LAW TO SUPREME COURT IN CERTAIN CASES.

An Act to Provide for the Certification of Questions of Law to the Supreme Court in Civil and Criminal Cases Where the Determination of Such Questions may Determine the Issues in a Cause at Issue.

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

Sec. 1. Where any cause is at issue, civil or criminal, in any District Court or County Court with increased jurisdiction, in this State and the issue of the same will depend principally or wholly on the construction of the law applicable thereto and such construction or interpretation is in doubt and vital, or of great moment in the cause, the Judge of any such Court may, on the application of the attorney or attorneys for Plaintiff or Defendant in a civil case, and upon the application of the attorney for the Plaintiff and Defendant in a criminal cause, halt all proceedings until such question or questions shall have been certified to the Supreme Court and it or they have been determined.

Sec. 2. In all actions both civil and criminal, the matter of certifying questions shall be in the sound discretion of the Trial Judge, and the Supreme Court may refuse to consider the same if it or they are frivolous, or are merely interlocutory in their nature, or otherwise not of sufficient importance to determine the issues in the cause at bar.

Sec. 3. In all causes certified under this Act so much of the record as may be necessary to a clear understanding of the pending issues shall be sent to the Supreme Court, and briefs as pro-

vided in other matters shall be made and filed and oral arguments, if desired, shall be heard in all cases. In criminal causes the record shall be certified at the expense of the State or County in case of indigent defendants.

Approved February 14, 1919.

CHAPTER 3.

(H. B. No. 35—J. J. O'Connor.)

CIVIL ACTION—PLACE OF TRIAL.

An Act to Amend and Re-enact Section 7415 of the Compiled Laws of North Dakota for the Year 1913, Providing the Place of Trial of Civil Actions.

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

Sec. 1. AMENDMENT.) That Section 7415 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows.

Sec. 7415. WHERE SUBJECT MATTER IS.) Actions for the following causes must be tried in the county in which the subject of the action or some part thereof is situated, **subject to the power** of the Court to change the place of trial in the cases provided by statute.

1. For the recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest, and for injuries to real property.

2. For the partition of real property.

3. For the foreclosure of a mortgage of real property.

4. For the recovery of personal property distrained for any cause.

5. All actions brought on a policy of insurance to recover for loss or damage to the property insured shall be tried in the County or Judicial Subdivision where such property is situated at the time of its loss or damage.

6. All actions against any domestic corporation shall be tried in any County or Judicial Subdivision designated in the complaint and in which the Defendant Corporation transacts business.

Approved February 14, 1919.