

A judge of the district court or of the supreme court who shall have served as such a combined total of eighteen years upon application for retirement shall be entitled to retirement pay under the provisions of this act upon reaching the age of seventy years provided that during the period interim his retirement and the time he reaches the age of seventy years he shall pay to the state of North Dakota each year an amount equal to five per cent of the salary which he was receiving at the time of his retirement.

§ 3. DUTIES OF RETIRED JUDGES) Upon the retirement of a judge of the supreme court or a judge of the district court, the supreme court may appoint him a commissioner of that court to aid and assist the court in the performance of such duties as may be assigned to him with his consent.

Any such retired judge shall also be eligible to serve as a referee in any civil case or other judicial proceeding when so designated by the court having power to appoint referees; he may also, when requested, serve as legal counsel in the office of the attorney general, in any executive department, commission or bureau of the state and for any committee of the legislative assembly.

§ 4. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 5, 1951.

JUDICIAL PROCEDURE, CIVIL

CHAPTER 201

S. B. No. 151

(Knudson, Spiekermeier, Kusler and Haag)

DEFENSE COUNSEL FOR LAW ENFORCEMENT OFFICERS AN ACT

Relating to the defense of public peace officers.

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

§ 1. STATE AND OTHER POLITICAL SUBDIVISIONS TO FURNISH COUNSEL TO DEFEND LAW ENFORCEMENT OFFICERS.) The state or any political subdivision of the state may furnish legal counsel to defend any law enforcement officer in any action brought against such officer to recover damages arising out of any act of such officer in good faith and in the performance of his official duties.

Approved February 28, 1951.

CHAPTER 202

S. B. No. 42
(Legislative Research Committee)

SERVICE OF PROCESS ON RESIDENT AND NON-RESIDENT
MOTOR VEHICLE USERS

AN ACT

To amend and reenact sections 28-0611 and 28-0613 of the North Dakota Revised Code of 1943, relating to service of process on resident and non-resident motor vehicle users.

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

§ 1. AMENDMENT.) Section 28-0611 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

28-0611. NONRESIDENT MOTOR VEHICLE USER; SERVICE UPON.) The use and operation by a resident of this state or his agent, or by a non-resident or his agent, of a motor vehicle upon or over the highways of this state shall be deemed an appointment by such resident when he has been absent from this state continuously for six months or more following an accident or by such nonresident at any time, of the highway commissioner of this state to be his true and lawful attorney upon whom may be served all legal process in any action or proceeding against him growing out of such use or operation of the motor vehicle resulting in damages or loss to person or property, and such use or operation shall constitute an agreement that any such process in any action against him which is so served shall have the same legal force and effect as if served upon him personally. Service of the summons in such case may be made by delivering a copy thereof to the highway commissioner together with a fee of two dollars.

§ 2. AMENDMENT.) Section 28-0613 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

28-0613. COMMISSIONER TO KEEP RECORD OF PROCESS RECEIVED FOR NONRESIDENT MOTOR VEHICLE USERS.) The highway commissioner shall keep a record of all process served upon him under the provisions of section 28-0611. Such record shall show the day and hour of service. If any defendant served under 28-0611 has made proof of financial responsibility by filing a certificate of insurance coverage, as provided in section 39-1618 of the 1949 Supplement, the commissioner shall mail a copy of such summons and complaint to the insurance carrier named in such certificate.

Approved February 9, 1951.

CHAPTER 203

S. B. No. 51
(Legislative Research Committee)

REPEAL EXCUSING OF JURORS IN CIVIL AND
CRIMINAL CASES

AN ACT

To repeal sections 28-1307 and 29-1518 of the North Dakota Revised Code of 1943, relating to the excusing of jurors.

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

§1. REPEAL.) Sections 28-1307 and 29-1518 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved February 9, 1951.

CHAPTER 204

S. B. No. 77
(Day and Duffy)

MOTION FOR DIRECTED VERDICT AND JUDGMENT NOTWITH-
STANDING THE VERDICT OR JUDGMENT IN ACCORDANCE
WITH THE MOTION FOR A DIRECTED VERDICT AND
ORDERS SEPARATELY REVISABLE ON APPEAL

AN ACT

To amend and reenact sections 28-1509 and 28-1510 of the North Dakota Revised Code of 1943, as amended by chapter 220 of the Session Laws of 1945, and section 28-1511 of the North Dakota Revised Code of 1943, relating to motions for directed verdict, judgment notwithstanding the verdict, or judgment in accordance with the motion for a directed verdict and appeals from orders denying such motions.

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

§ 1. AMENDMENT.) Sections 28-1509 and 28-1516 of the North Dakota Revised Code of 1943 as amended by chapter 220 of the Session Laws of 1945 are hereby amended and reenacted to read as follows:

28-1509. MOTION FOR DIRECTED VERDICT.) When at the close of the testimony any party to the action moves the court to direct a verdict in his favor, and the adverse party objects thereto, such motion shall be denied and the court shall submit to the jury such issue or issues, within the pleadings on which any evidence has been taken, as either or any party to the action shall request.

28-1510. MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT OR FOR JUDGMENT IN ACCORDANCE WITH MOTION FOR DIRECTED VERDICT.) In denying a motion for a directed verdict the court shall be deemed to have submitted the action to the jury subject to a later determination of the questions of law raised by the motion. Within ten days after the reception of a verdict, a party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to have judgment notwithstanding the verdict entered in accordance with his motion for a directed verdict, or if a verdict was not returned such party, within ten days after the jury has been discharged, may move for judgment in accordance with his motion for a directed verdict. The motion for judgment notwithstanding the verdict may be joined with an alternative motion for a new trial. If a verdict was returned, the court may allow the judgment to stand or may reopen the judgment as if the requested verdict had been directed. If no verdict was returned, the court may direct the entry of judgment as if the requested verdict had been directed or may order a new trial.

§ 2. AMENDMENT.) Section 28-1511 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

28-1511. ORDERS SEPARATELY REVIEWABLE ON APPEAL.) The supreme court, without a motion for judgment notwithstanding the verdict, or a motion in the alternative for such judgment or for a new trial, first made in the trial court, may review the ruling on the motion for a directed verdict on appeal from the judgment, and may order judgment to be entered when it appears from the testimony that a verdict should have been so directed. It also may so order on appeal from an order denying a motion for judgment notwithstanding the verdict, or on appeal from an order denying a motion for judgment in accordance with the motion for a directed verdict if no verdict was returned. On appeal from an order made upon a motion in the alternative for judgment notwithstanding the verdict or for a new trial the court shall review the whole order and may reverse, affirm, or modify the order as to any and all parties.

Approved February 9, 1951.

CHAPTER 205

H. B. No. 671

(Smart and Stormon of Rolette)

DOCKETING JUDGMENTS OF U. S. COURTS; EFFECT

AN ACT

To amend and reenact section 28-2018 of the North Dakota Revised Code of 1943 providing for docketing of judgments of United States Courts and the effect of such docketing, and declaring an emergency.

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

§ 1. AMENDMENT.) That section 28-2018 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

28-2018. DOCKETING JUDGMENTS OF UNITED STATES COURTS: EFFECT.) A transcript of the docket entry of any judgment or decree rendered in any district court of the United States within this state, duly certified by the clerk thereof, may be filed with the clerk of the district court of any county in this state, and the same shall be docketed immediately by said clerk in the same manner in which judgments rendered in the district courts of this state are docketed. From the date of such docketing, and not before, such judgment or decree shall be a lien upon all the real estate of the judgment debtor not exempt from execution, owned by him or the title to which he subsequently may acquire in the county where such judgment is docketed, in the same manner and to the same extent and under the same conditions only as if such judgment or decree had been rendered by a district court of this state.

§ 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1951.