

# ACTIONS.

## CHAPTER 2.

[H. B. No. 83—Buttz.]

### COMMENCEMENT OF ACTIONS.

AN ACT to Amend Section 5201 of the Revised Codes of 1899, Relating to  
Time of Commencing Actions.

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

§ 1. AMENDMENT.] That section 5201 of the revised codes of the state of North Dakota, 1899, be amended so as to read as follows:

§ 5201. SIX YEARS. . WITHIN SIX YEARS]:

1. An action upon a contract, obligation or liability, express or implied, excepting those mentioned in section 5200.

2. An action upon a liability created by statute, other than a penalty or forfeiture, when not otherwise expressly provided.

3. An action for trespass upon real property.

4. An action for taking, detaining or injuring any goods or chattels, including actions for the specific recovery of personal property.

5. An action for criminal conversation [conversion,] or any other injury to the person or rights of another not arising on contract and not hereinafter enumerated.

6. An action for relief on the ground of fraud in cases which heretofore were solely cognizable by the court of chancery, because of action in such cases not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

7. An action for the foreclosure of a mechanic's lien; provided, that subdivision 7 shall not apply to any mechanic's lien filed prior to the passage of this act.

Approved March 10, 1903.

## CHAPTER 3.

[H. B. No. 115—Richmond.]

## COMMENCEMENT OF CIVIL ACTIONS.

AN ACT to Amend Section 5249, Chapter 7, of the Revised Codes of 1899, Relating to the Commencement of Civil Actions and the Filing and Service of Complaints in the District Courts.

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

§ 1. AMENDMENT.] That section 5249 of the revised codes 1899 be amended to read as follows:

§ 5249. CONTENTS OF SUMMONS.] A copy of the complaint need not be served with the summons. In such case the summons must state that the complaint is, or will be, filed with the clerk of the district court in the county in which action is commenced, and if the defendant within thirty days thereafter causes notice of appearance to be given and in person, or by attorney, demands in writing a copy of the complaint, specifying a place within the state where it may be served, a copy thereof must, within thirty days thereafter, be served accordingly, and after such service the defendant has thirty days to answer, but only one copy need be served on the same attorney. Where the summons states that the complaint is or will be filed with the clerk of court and the same is not so filed within thirty days after the date of such summons, the action will be deemed discontinued.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are repealed.

Approved March 10, 1903.

## CHAPTER 4.

[S. B. No. 6—Sharpe.]

## PROCEDURE IN CIVIL ACTIONS.

AN ACT to Amend Chapter 61 of the Session Laws of 1901, being Section 6633 of the Revised Codes of North Dakota, 1899, Relating to Procedure in Civil Actions.

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

§ 1. AMENDMENT.] That chapter 61 of the session laws of 1901, being section 6633 of the revised codes of North Dakota, 1899, be amended and re-enacted to read as follows:

§ 6633. ACTIONS, WHERE COMMENCED AND TRIED.] The county

in which a civil action in a justice's court must be commenced and tried is as follows:

1. An action of forcible detainer or for trespass or any other injury to real property, or an action to recover specific personal property, or to foreclose or enforce a lien upon chattels or trespassing animals, must be brought in the county in which the subject of the action or property upon which the lien was claimed is situated.

2. An action to recover a penalty or forfeiture prescribed by statute, or to recover of a public officer, or his deputy, agent or surety for a violation of official duty, or any act done by color of his office, must be brought in the county in which the cause of action arose.

3. Every other action must be tried in the county in which the original defendant, or one of the several original defendants, resides, or in which a warrant of attachment is levied on property of the defendant.

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

Approved Feb. 4, 1903.

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## CHAPTER 5.

[S. B. 119—Simpson.]

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### DISMISSAL OF ACTION AFTER FIVE YEARS.

AN ACT Providing for the Dismissal of Actions in the Courts of Record of this State which have been Pending for a Period of Five Years, Wherein the Plaintiff or his Successor in Interest has Neglected to Prosecute said Action.

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

§ 1. ACTIONS ARE DEEMED DISMISSED, WHEN.] All actions which have been commenced, or hereafter may be commenced, in any of the courts of record in this state wherein the plaintiff, or his successor in interest, shall have neglected, or shall neglect, for a period of five years after the commencement of said action, to bring the same to trial and to take proceedings for the final determination thereof, are hereby deemed dismissed and abandoned by the plaintiff, and the defendant or his successor in interest, or any other person having an interest in said action, or in the subject matter thereof, may apply to the court for a formal order dismissing said action.

§ 2. COURT SHALL MAKE ORDER OF DISMISSAL.] If upon such application to the court, facts shall be presented thereto, showing that said action is one covered by the provisions of this act, the court shall make an order formally dismissing said action, which

order shall be entered of record in the office of the clerk of the court of the county where said action is pending, and shall have the effect of a final judgment of dismissal.

Approved March 9, 1903.

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## ADULTERATION OF FOOD.

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### CHAPTER 6.

[S. B. No. 26—Lewis.]

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#### PURE FOOD LAW.

AN ACT to Prevent the Adulteration, Misbranding and Selling of Adulterated and Unwholesome Foods and Beverages, Prescribing a Penalty for the Violation, Providing for the Inspection and Analysis of Foods, Charging the North Dakota Government Agricultural Experiment Station with the Duty Thereof, Charging the State's Attorney with the Enforcement Hereof, and Making an Appropriation Therefor.

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

§ 1. ADULTERATING AND MISBRANDING FOODS AND BEVERAGES.] It shall be unlawful for any person, his servant or agent, or while acting as the servant or agent of any other person or corporation, to manufacture for sale or offer for sale any article of food or beverage which is unwholesome or adulterated within the meaning of this act.

§ 2. WHAT CONSTITUTES ADULTERATION.] Any article of food or beverage shall be considered as unwholesome or adulterated within the meaning of this act:

First. If it contains any form of aniline dye or other coal tar dye.

Second. If it contains formaldehyde, benzoic acid, sulphites, sulphurous acid or salicylic acid.

Third. If any substance or substances have been mixed with it so as to reduce or lower or injuriously affect its quality or strength, so that such article of food or beverage when offered for sale, shall deceive or tend to deceive the purchaser.

Fourth. If any inferior or cheaper substance or substances have been substituted wholly or in part for the article, so that the product, when sold, shall deceive or tend to deceive the purchaser.

Fifth. If any necessary or valuable constituent of the article has been in whole or in part abstracted.

Sixth. If it be an imitation of or offered for sale under the specific name of another article.