

shall deem equitable and just ; and, thereupon, may discharge such putative father from all liability for the support of such bastard.

Take effect,  
when.

SECT. 13. This act shall take effect and be in force from and after its passage.

Approved May 12, 1862.

W. JAYNE, *Governor.*

## BOATS AND VESSELS.

### CHAPTER 7.

AN ACT TO PROVIDE FOR PROCEEDINGS FOR THE COLLECTION OF DEMANDS AGAINST BOATS AND VESSELS.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

Boats and ves-  
sels liable for  
what.

SECTION 1. Every boat or vessel, used in navigating the waters of this territory, shall be liable: 1st. For all debts contracted by the master, owner, agent, or consignee thereof, on account of supplies furnished for the use of such boat or vessel; on account of work done or services rendered on board of such boat or vessel, or on account of labor done or material furnished by mechanics, tradesmen, or others, in and for building, repairing, fitting out, furnishing, or equipping such boat or vessel. 2d. For all sums due for wharfage or anchorage of such boat or vessel in this territory. 3d. For all demands or damages accruing from the non-performance of any contract of affreightment, or any contract touching the transportation of persons or property, entered into by the master, owner, agent, or consignee of the boat or vessel, on which said contract is to be performed; and for all injuries done to persons or property by such boat or vessel.

Suit may be  
instituted against  
boat or vessel.

SECT. 2. Any person having a demand as aforesaid, instead of proceeding for the recovery thereof against the master, owner, agent, or consignee of a boat or vessel, may, at his option, institute suit against the boat or vessel by name.

SECT. 3. Any plaintiff wishing to institute suit against a boat or vessel, shall file his complaint against such boat or vessel by name, with the clerk of the district court of the county in which such boat or vessel shall be or lie.

How commenced.

SECT. 4. The complaint shall set forth the plaintiff's demand in all its particulars, and on whose account the same accrued; it shall be verified by the plaintiff, or some credible person for him.

The complaint.

SECT. 5. Whenever any complaint, as aforesaid, shall be filed in the office of the clerk of the district court, it shall be his duty to issue a warrant returnable in twenty days, directing and authorizing the sheriff to seize the boat or vessel mentioned in the complaint, and detain the same in his custody, together with its tackle, apparel, and furniture, until discharged from such custody by due course of law.

Warrant to be issued, when.

SECT. 6. Upon the return of any warrant, issued by virtue of the next preceding section, proceedings shall be had before the district court, against the boat or vessel seized, in the same manner as if suit had been instituted against the person on whose account the demand accrued.

Return of warrant.

SECT. 7. The master, owner, or consignee of the boat or vessel, may appear on behalf of such boat or vessel, and answer the complaint.

Master, owner, &c., may appear.

SECT. 8. If [in] any action, commenced under the provisions of this act, the master, owner, agent, or consignee of the said boat or vessel shall not appear and answer the complaint in twenty days after the said action shall be commenced, the plaintiff may proceed to take judgment, in the same manner and under the same restrictions as in a civil action against a natural person: if an issue of facts should be joined, the proceedings shall be had as in other cases.

If he does not appear.

SECT. 9. If the master, owner, agent, or consignee shall, before final judgment in any suit instituted by virtue of this act, give bonds to the plaintiff in such suit, with sufficient sureties, to be approved by the court or the judge or clerk thereof in vacation, conditioned to satisfy the amount that shall be adjudged to be owing and due to the plaintiff, in the determination of the suit, together with all costs accruing, such boat or vessel, with the tackle, apparel, and furniture belonging thereto, shall be discharged from further detention by the sheriff.

Boat, &c., discharged, when satisfactory security is given.

Court may order sale, when.

SECT. 10. If judgment shall be rendered against any boat or vessel, in favor of the plaintiff, the court shall make an order, directed to the sheriff, commanding him to sell such boat or vessel, together with its tackle, apparel, and furniture, to satisfy the judgment, and all costs that may have accrued in the cause, which order shall be executed and returned in the same manner as executions.

If bond is given, execution issue against principal and security.

SECT. 11. If bond and security shall have been entered into according to the ninth section of this act, and judgment shall have been rendered in favor of the plaintiff, execution shall be issued for the amount of judgment and costs in favor of the plaintiff, against the principal and security in such bond.

Justices have cognizance, when.

SECT. 12. Justices of the peace within their respective counties, shall have cognizance of all cases arising under this act, when the demand claimed shall not exceed the jurisdiction of a justice of the peace.

Justices, how governed.

SECT. 13. In all their proceedings, justices of the peace shall conform to the provisions of the law governing justices' courts, and as near as may be to the provisions of this act, as they apply in the district court.

Warrants returnable forthwith. Decided in a summary manner.

SECT. 14. Each warrant issued by a justice of the peace under this act, shall be returnable forthwith; and upon the return of such warrant it shall be the duty of the justice of the peace to hear and determine the complaint of the plaintiff in a summary manner.

Warrants served and returned, how.

SECT. 15. All warrants issued by the provisions of this act, shall be served and returned as writs of attachments are served and returned.

Officer may sell such part as may be necessary.

SECT. 16. Whenever an order of sale shall be made for the sale of a boat or vessel, with its tackle, apparel, and furniture, the sheriff or constable shall have power to sell such part thereof, or such material therein, as shall be necessary to satisfy the amount of judgment rendered in favor of the plaintiff, and all the costs that may have accrued.

Continuance granted, when and for what cause.

SECT. 17. Upon good and sufficient cause shown by the master, owner, agent, or consignee of any boat or vessel sold under this act, the court or justice of the peace may grant a continuance of the cause; but no such continuance shall operate as a discharge of such boat or vessel from the custody of the sheriff or constable.

SECT. 18. No continuance under this act shall be granted to the plaintiff. No continuance to plaintiff.

SECT. 19. Sheriffs, constables, and other officers shall receive the same compensation for their services under this act, as are allowed them in cases of suits of attachment. Compensation of officers.

SECT. 20. In all cases arising under this act, if judgment shall have been rendered in favor of the plaintiff, the master, owner, or consignee of the boat or vessel, or other person interested, may appeal from the judgment, as if they or either of them had been sued. Appeals may be taken.

SECT. 21. All actions against a boat or vessel, under the provisions of this act, shall be commenced and sued within one year after the cause of such action shall have accrued. Actions commenced within one year.

SECT. 22. This act shall take effect from and after its passage and approval by the governor. Take effect, when.

Approved May 2, 1862.

W. JAYNE, *Governor.*

## CIVIL PROCEDURE.

### CHAPTER 8.

AN ACT TO ESTABLISH A CODE OF CIVIL PROCEDURE.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

#### PRELIMINARY PROVISIONS.

SECTION 1. This act shall be known as the code of civil procedure of the Territory of Dakota. Style of act.

SECT. 2. The rule of the common law, that statutes in derogation thereof, are to be strictly construed, has no application to this code. Its provisions, and all proceedings under it, shall be liberally construed, with a view to promote its object, and assist the parties in obtaining justice. Rule of construction.