

JUSTICES COURTS.

CHAPTER 10.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH THE COURTS AND DEFINE THE JURISDICTION OF JUSTICES OF THE PEACE," APPROVED, JANUARY 4TH, 1866.

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

Section 1. That sections 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, and 220, of an act to establish the courts and define the jurisdiction of justice of the peace, approved, January 4th, 1866; be and the same are hereby repealed, and that there be enacted in lieu thereof the following: What sections are repealed

Sec. 2. Any justice of the peace within his proper county shall have power to inquire in the manner hereinafter specified of all cases of forcible entry, or detention of real property. Power of justice

Sec. 3. This proceeding is allowable: Proceeding

1, Where the defendant has by force, intimidation, fraud, or stealth, entered upon the prior actual possession of another in regard to real property and detains the same;

2, Where a lessee holds over after the termination of his lease, agreements, or contract;

3, Where the defendant continues in possession after a sale by foreclosure of a mortgage or an execution, unless he claims by a title paramount to the lien by virtue of which the sale was made, or by title derived from the purchaser at the sale.

Sec. 4. The non-payment of rent at the time stipulated shall enable the lessor to resort to this action. Non payment of rent

Sec. 5. Before suit can be brought in any except the first of the classes designated in section 3 hereof, three days notice to quit must be given to the defendant in writing. Notice to quit

- Who may bring action** Sec. 6. The legal representatives of a person who might have been plaintiff if alive, may bring this action after his death.
- Complaint in writing** Sec. 7. The complaint must be in writing and verified by the party, his agent or attorney.
- Proceedings** Sec. 8. The proceedings may be had before any justice of the peace of the county where the premises are situated and shall be governed by the same rules as other cases before justices of the peace except as herein modified; *Provided, however,* That the question of title can not be investigated under the provisions of this act.
- Time for appearance** Sec. 9. The time for appearance and pleading must not be less than two nor more than four days from the time the summons is served on the defendant.
- No adjournment—except** Sec. 10. No adjournments or continuances shall be made for more than five days, except for witnesses residing without the Territory.
- If found guilty** Sec. 11. If the defendant is found guilty, judgment shall be entered that he be removed from the premises, and that the plaintiff be put in possession thereof and a warrant of removal shall issue accordingly to which shall be a clause commanding the officer to levy the costs as in ordinary actions.
- Set off** Sec. 12. An action under the provisions of this act, can not be brought in connection with any other, nor can it be made the subject of set off.
- Warrant of removal** Sec. 13. A warrant of removal can be executed only in the day time.
- Appeal** Sec. 14. An appeal taken in the usual way, if security be given in the usual manner together with further security for payment of rent or damages, shall suspend all further proceedings until the cause is determined in the district court.
- Trial of appeal** Sec. 15. The district court upon the trial of such appeal may make such disposition of the case as justice may require.
- Costs** Sec. 16. Costs shall be taxed as in other cases before justices of the peace.
- Act to take effect** Sec. 17. This act being deemed of immediate importance shall take effect and be in force from and after its passage and approval.

Approved, Jan. 8, 1869.