

ACTIONS TRANSFERRED FROM THE THIRD TO SIXTH DISTRICT.

CHAPTER 83.

AN ACT Concerning Actions and Proceedings Brought in the Third Judicial District of Dakota Territory, in the Counties or Sub-divisions now included in the Sixth Judicial District of said Territory, and the Jurisdiction thereof since the Creation of the said Sixth Judicial District.

WHEREAS, The judge of the district court of the sixth judicial district of the Territory of Dakota, as created by act of congress, has held that the said court has no jurisdiction "To hear, try or determine any action or proceeding" pending in the subdivisions in said district prior to the creation of said district ; Therefore,

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

§ 1. ACTIONS TO CONTINUE, ETC] That all actions, motions, orders and proceedings, pending at the time of the passage of said act of congress are hereby declared to continue in said 6th judicial district in every sub-division therein, with full force and effect, the same as though said judge had not so held ; *Provided, however,* That this act shall not be construed as a legislative construction that such decision is correct, but this act is passed to avoid the effect of such decision on pending cases and proceedings and to avoid litigation and unnecessary appeals.

Approved, March 13, 1885.

Juries.

CHAPTER 84.

AN ACT Providing for Struck Juries.

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

§ 1. MANNER OF SELECTING JURY.] That whenever a struck jury is deemed necessary, by either party, for the trial of the issue

in any action or proceeding in the district court, or brought there by appeal or otherwise, such party may file with the clerk of the court a demand in writing for such jury, whereupon such clerk shall forthwith deliver a certified copy of such demand to the sheriff of the county, who shall give to both parties four days notice of the time of the striking of the same. At the time designated said sheriff shall attend at his office, and in the presence of the parties, or their attorneys, or such of them as attend for that purpose, shall select from the number of persons qualified to serve as jurors within the county, forty such persons as he shall think most indifferent between the parties, and best qualified to try such issue, and then the party requiring such jury, his agent or attorney shall first strike off one of the names, and the opposite party, his agent or attorney, another, and so on alternately, until each have struck out twelve. If either party shall not attend in person, or by attorney, the sheriff shall strike for the party not attending. When each party has stricken out twelve names as above aforesaid, the sheriff shall make a fair copy of the names of the remaining sixteen persons, and certify the same under his hand, to be the list of jurors struck for the trial of such case or proceeding, and shall deliver the same to the clerk, who shall thereupon issue and deliver to the sheriff or other officer, a *venire facias*, with the names in said list contained, annexed thereto, and such sheriff or other officer shall summon the persons named according to the demand of such writ, and upon the trial of the cause, the jury so struck shall be called as they stand upon the panel, and the first twelve of them who shall appear and are not challenged for cause or set aside by the court, shall be the jury, and shall be sworn to try the issue joined in said cause or proceeding, *Provided*, That if a sufficient number does not appear for the trial of said cause, the court shall cause talesmen to be called as in other cases.

§ 2. WHEN SHERIFF NOT TO ACT.] That if the said sheriff is interested in the cause or proceedings or related to either of the parties, or does not stand indifferent between them the judge of the said court may name some judicious and disinterested person to select and strike the jury, and to do and perform all things required to be done by said sheriff relating to the striking out of the same, but in no case shall it be necessary to strike such jury more than six days previous to the term of the court at which the action or proceeding is to be tried, and three days service of the *venire* shall be held sufficient.

§ 3. FEES—HOW PAID.] That the party requiring such struck jury shall pay the fees for striking the same, and the legal fees for mileage and attendance for each juror so attending, and shall not have any allowance therefor in the taxation of costs.

§ 4. JURY TO BE ALLOWED BY COURT.] That no struck jury

shall be had under the provisions of this act unless the same has been allowed by the court or judge thereof on due notice, *Provided*, That this act shall not be construed to apply to trials and juries in criminal cases.

§ 5. This act shall take effect and be in force immediately on and after its passage and approval.

Approved, March 13, 1885.

Justices of the Peace.

CHANGE OF VENUE.

CHAPTER 85.

AN ACT to Amend "An act the Establish a Code of Proceedings in Courts of Justice of the Peace, and to Limit the Jurisdiction of the Same.

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

§ 1. THIS SECTION TO APPLY.] Section one hundred and twelve of the Justice's Code of the Territory of Dakota, be and the same is hereby amended by adding at the end of said section the following proviso: *Provided*, That this section shall apply to all examinations and proceedings under chapter three of title two of the Code of Criminal Procedure, relating to the jurisdiction and duties of justices of the peace in cases of security to keep the peace; and also to examinations held under, or pursuant to, chapter seven of title four of said Code, in all cases where the person complained of is not brought before a Judge of the Supreme Court or of the District Court.

§ 2. This act shall take effect and be in force from and after its passage.

Approved, March 12, 1885.

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