

§ 2721. Any unmarried male of the age of eighteen (18) years or upwards, and any unmarried female of the age of fifteen (15) years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage; *Provided*, that if the male is under twenty-one (21) years, or the female under eighteen (18) years of age, the license provided in this chapter shall not be issued without the consent of the parents or guardian, if there be any.

Approved March 9th, 1897.

APPEALS.

CHAPTER 5.

[S. B. 136.]

RELATING TO TRIALS IN DISTRICT COURT.

AN ACT to Amend Section 5630 of the Revised Codes Relating to Trials in District Court, Relating to Appeals in Cases Tried in District Court without a Jury.

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

§ 1. AMENDMENT.] That section 5630 of the Revised Codes of North Dakota is hereby amended to read as follows:

§ 5630. In all actions tried by the district court without a jury, in which an issue of fact has been joined, all the evidence offered on the trial shall be received. Either party may have his objections to evidence noted as it is offered; but no new trial shall be granted by the District Court on the ground that incompetent or irrelevant evidence has been received, or on the ground of the insufficiency of the evidence. A party desiring to appeal from a judgment in any such action, shall cause a statement of the case to be settled within the time and in the manner prescribed by Article 8, of Chapter 10, of this code, and shall specify therein the questions of fact that he desires the Supreme Court to review, and all questions of facts not so specified shall be deemed on appeal to have been properly decided by the trial court. Only such evidence as relates to the questions of fact to be reviewed shall be embodied in this statement. But if the appellant shall specify in the statement that he desires to review the entire case all the evidence and proceedings shall be embodied in the statement. All incompetent and irrelevant evidence, properly objected to in the trial court, shall be disregarded by the Supreme Court, but no objection to evidence can be made for the first time

in the Supreme Court. The Supreme Court shall try anew the questions of facts specified in the statement or in the entire case, if the appellant demands a re-trial of the entire case, and shall finally dispose of the same whenever justice can be done without a new trial, and either affirm or modify the judgment or direct a new judgment to be entered in the District Court; the Supreme Court may, however, if it deem such course necessary to the accomplishment of justice order a new trial of the action. In actions tried under the provisions of this section, failure of the court to make findings upon all the issues in the case shall not constitute a ground for granting a new trial or reversing the judgment. This statute shall apply only to cases hereafter tried.

Approved March 12, 1897.

CHAPTER 6.

[H. B. 101.]

UNDERTAKINGS ON APPEALS.

AN ACT to Amend Section 6776 of the Revised Codes of North Dakota, Relating to Undertakings on Appeals from Judgments Rendered in Justices' Court in Civil Actions.

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

§ 1. AMENDMENT.] That section 6776 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 6776. The undertaking for appeal must be served with the notice; also appellant's pleading when the judgment appealed from was taken by default. The adverse party may except to the sufficiency of the surety on such undertaking within five days after its service, by giving notice of exception specifying whether the justification must be made before the clerk of the district court or the justice by whom the judgment was rendered. Thereupon the surety must justify before the officer specified upon like notice and in like manner as in an arrest and bail proceeding or a new undertaking must be given with new surety, which shall be subject to exception in the same manner and with like effect as the original. Unless such surety justifies or a new undertaking with a new surety is given when so required, the appeal must be dismissed on motion of the respondent, but the liability of the surety on any undertaking so given shall not be released thereby.

Approved March 9th, 1897.

CHAPTER 7.

[H. B. 102.]

REGULATING APPEALS FROM JUSTICES' COURT.

AN ACT to Regulate Appeals from Justices' Courts on Questions of Law.

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

§ 1. NOTICE OF APPEAL.] A party desiring to appeal from the judgment of a justice of the peace on questions of law alone may do so by specifying in his notice of appeal the errors in law complained of. A specification which intelligibly refers to any ruling or proceeding of the justice appearing on his docket is sufficient without stating the reason for the objection, and no other form of exception is necessary.

§ 2. HEARING IN TEN DAYS.] After such appeal is perfected it may be brought to a hearing by either party in the same manner and upon like notice as an issue of law in other cases. If not so disposed of, it shall be entered on the calendar for hearing and determination at the next term of the district court convening not less than ten days after the same is taken.

§ 3. MAY AFFIRM OR REVERSE.] The district court shall review and determine only such errors in law as are specified with reasonable certainty in the notice of appeal, and may order a dismissal of the appeal if the same has not been duly perfected, or the record of the justice has not been transmitted and no application is made by the appellant for an order requiring the justice to certify and transmit the proceedings, otherwise the court may affirm or reverse or modify the judgment of the justice and may direct the same to be entered as the judgment of the district court or direct the entry of such judgment therein as the justice ought to have rendered, according to the right of the matter.

§ 4. PLEADING.] When the decision of the district court reopens the case for the trial of an issue of fact, the decision shall direct that the action be retained and placed on the calendar of the court for trial accordingly as in other cases, and thereupon the parties may be allowed to serve and file any pleading that may be necessary or proper within such time as the court deems reasonable.

§ 5. JUSTICE CODE.] In other respects appeals taken under the provisions of this chapter and the proceedings thereon shall be governed by the provisions of the justices' code relating to appeals in civil actions.

Approved March 9th, 1897.