

## CIVIL PROCEDURE.

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### CHAPTER 46.

[S. B. 15.]

#### TRIAL OF CIVIL ACTIONS.

**AN ACT** to Amend Section 5435 of the Code of Civil Procedure of the State of North Dakota, Relating to the Jury in the Trial of Civil Actions.

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

§ 1. AMENDMENT.] That section 5435 of the code of civil procedure be and the same is hereby amended so as to read as follows:

§ 5435. The jurors sworn to try a civil action, may, in the discretion of the court, be kept in charge of proper officers during each recess of the court pending the trial; and whether the jurors are permitted to separate, or are kept in charge of an officer, they shall be admonished by the court that it is their duty not to converse with or suffer themselves to be addressed by any person on any subject of the trial, and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them.

§ 2. EMERGENCY.] *Whereas*, There is no law in force authorizing the court to keep the jurors in the custody of an officer during recess of the court pending trial of a civil action, an emergency exists for such a law.

*Now, therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, February 17, 1897.

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### CHAPTER 47.

[S. B. 27.]

#### IN CIVIL ACTIONS.

**AN ACT** Regulating Procedure in Civil Actions.

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

§ 1. PROCEDURE IN CIVIL ACTIONS.] When, during the pendency of an action, a judgment upon the claim which constitutes the plaintiff's cause of action is rendered in another action, the

plaintiff may by supplemental complaint allege the recovery of such judgment in aid of his original action and shall not be required to dismiss such action and commence a new suit upon such judgment; nor shall the recovery of such judgment constitute any bar to the further prosecution of such action, but such action shall thereafter proceed in all respects the same as if originally instituted upon such judgment.

Approved, February 4, 1897.

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## CHAPTER 48.

[S. B. 39.]

### RELATING TO PLEADINGS.

AN ACT to Amend Section 6669 of the Revised Codes of the State of North Dakota, Being Section 53 of the Justice's Code, Enacted by the Fourth Session of the Legislative Assembly of the State of North Dakota.

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

§ 1. AMENDMENT.] That section 6669 of the Revised Codes of the State of North Dakota, being section 53 of an act entitled "An Act to Establish a Justice's Code for the State of North Dakota," enacted by the Fourth Session of the Legislative Assembly of said State, approved February 27, 1895, be amended to read as follows:

§ 6669. PLEADINGS WHEN IN WRITING AND VERIFIED.] The pleadings must be in writing, and be verified, in an action of forcible detainer, or an action to recover damages for an injury to real property. No issue arises upon an allegation of title or boundary in a complaint in such action [unless such allegation is specifically denied in the answer.

Approved, February 9th, 1897.

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## CHAPTER 49.

[S. B. 98.]

### TRIAL AND JUDGMENT.

AN ACT to Amend Sections 8158 and 8159, of Chapter 10, of the Code of Civil Procedure of the Revised Codes of 1895, Entitled, "Proceeding after the Commencement of the Trial and Before Judgment."

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

§ 1. AMENDMENT.] That sections 8158 and 8159 be, and the same are hereby amended to read as follows:

§ 8158. DEFENDANT'S CHALLENGES.] In all criminal cases the defendant is entitled to the following challenges:

1. For capital offenses the defendant may challenge peremptorily twenty jurors.
  2. In prosecutions for offenses punishable by imprisonment in the penitentiary, ten jurors.
  3. In other prosecutions, six jurors.
- § 8159. PROSECUTION—CHALLENGES.]
1. The prosecuting attorney in capital cases may challenge peremptorily, ten jurors.
  2. In prosecutions for offenses punishable by imprisonment in the penitentiary, five jurors.
  3. In other prosecutions, three jurors.
- Approved, February 20, 1897.

## CHAPTER 50.

[H. B. 34.]

### AMENDING THE REVISED CODES.

AN ACT to Amend Section Five Thousand Seven Hundred and Thirty-Two of the Revised Codes of North Dakota, Relating to Service of Papers when a Party Shall have an Attorney in the Action.

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

§ 1. AMENDMENT.] That section five thousand seven hundred and thirty-two of the Revised Codes of North Dakota is hereby amended so as to read as follows, to-wit:

§ 5732. SERVICE UPON ATTORNEY.] When a party shall have an attorney in the action, the service of papers shall be made on the attorney instead of the party; *Provided*, that the removal of such attorney from the state shall be deemed a withdrawal of his appearance, and terminate his relation as attorney in the action.

§ 2. EMERGENCY.] *Whereas*, An emergency exists in that no adequate provision exists defining the effect of the removal from the State of an attorney in an action, this act shall take effect and be in force from and after its passage and approval.

Approved, March 9th, 1897.