

# COURTS.

## CHAPTER 59.

[H. B. 119.]

### GARNISHEE PROCEEDINGS IN JUSTICE COURT.

AN ACT to Amend Sections 5, 6 and 7 of chapter 82 of the Session Laws of 1897, Being Section 6676e, of the Revised Codes of 1899, Relating to Garnishee Procedure in Justice Court.

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

§ 1. AMENDMENT.] That sections 5, 6 and 7 of chapter 82 of the Session laws of 1897 being section 6676e, of the Revised Codes of 1899, be amended so as to read as follows:

§ 6676e. WHEN COURT MAY RENDER JUDGMENT.] If any garnishee having been duly summoned, unless he shall have demanded his witness fees and the same shall not have been tendered, shall fail to appear and answer or to file his affidavit as required by the garnishee summons, the court may render judgment against him as provided in section 5391. Provided, however, that a plaintiff electing to take issue upon the affidavit of the garnishee must at the time fixed for appearance and answer, file with the justice a written notice to that effect, whereupon said justice shall, unless the parties to said issue agree to at once go to trial thereon, adjourn said garnishee action for not less than three, nor more than ten days, and issue a notice to said garnishee of the time and place to which said action is adjourned, and that said issue will then and there be tried, which said notice shall be served upon said garnishee in the same manner as required for service of summons in justice court, at which adjourned time proceeding may be as provided in section 5393. If a defendant desire to defend the garnishment proceedings upon the ground that the indebtedness or property involved is exempt from execution, or any other ground contemplated in section 5395, such defense must be interposed at the time fixed for the garnishee's appearance. The justice may also order an inter-pleader as provided in section 5397, and adjourn said action for hearing thereof to a date not less than three, nor more than ten days after the date fixed for appearance and answer in said garnishee action, and issue a notice to the claimant described in said section 5397, of the time and place of said adjournment, and that he shall then and there defend his claim, if any, to the money or property held in garnishment, which said notice shall be served upon said claimant in the same manner as required for the service of summons in justice court.

Approved March 12, 1901.

## CHAPTER 60.

[S. B. 8.]

## APPEARANCE IN PROBATE COURT.

AN ACT to Amend Section 6219 of the Revised Codes, 1899, Relating to Effect of Appearance in Probate Court.

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

§ 1. AMENDMENT.] Section 6219, Revised Codes, is hereby amended so as to read as follows:

§ 6219. APPEARANCE, NOTICE OF ALL PROCEEDINGS.] A party who appears, or is held to appear, as hereinbefore prescribed, is deemed to have knowledge of each postponement, and all other acts done in the course of the proceeding from the commencement until the final disposition thereof, without further notice, except such as is imparted by the records of the court.

A party who appears as hereinbefore prescribed, may waive in writing the service of any further citation, notice or papers in the proceeding and thereafter no such citation, notice or paper need be served on him.

§ 2. EMERGENCY.] Whereas an emergency exists in this that there is no provision of law authorizing parties in probate proceedings to waive service of citation, notice and papers, this act shall take effect and be in force from and after its passage and approval.

Approved February 6, 1901.

## CHAPTER 61.

[S. B. 61.]

## ACTIONS.

AN ACT to Amend Section 6633 of Revised Codes of 1899, Relating to Commencement of Actions in Justice Court.

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

§ 1. AMENDMENT.] That section 6633 of the Revised Codes of 1899, relating to commencement of actions in justice court be amended and re-enacted to read as follows:

§ 6633. ACTIONS, WHERE COMMENCED AND TRIED.] The county in which a civil action in a justice court must be commenced and tried is as follows:

1. An action of forcible detainer or for trespass or other injury to real property, or an action to recover specific personal property, or to foreclose or enforce a lien upon chattels or trespassing animals must

be brought in the county in which the subject of the action or property upon which the lien is claimed is situated.

2. An action to recover a penalty or forfeiture prescribed by statute or to recover of a public officer, or his deputy, agent or surety for a violation of official duty or any act done by color of his office must be brought in the county in which the cause of action arose.

3. Every other action must be tried in the county in which the original defendant, or one of several original defendants, resides or is served with summons, or in which a warrant of attachment is levied on property of the defendant except as provided in the next subdivision.

4. An action upon a contract stipulating for payment at a particular place may be brought in the county in which such place is situated; provided, that defendant or defendants referred to in this subdivision shall be construed to mean the original debtor or debtors.

Approved March 12, 1901.

---

#### CHAPTER 62.

[Substitute for S. B. 4.]

#### CHAMBERS OF JUDGE OF SEVENTH JUDICIAL DISTRICT.

AN ACT Repealing Section 410 of the Revised Codes of 1899, Relating to Chambers of the District Judge of the Seventh Judicial District.

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

§ 1. REPEAL.] Section 410 of the Revised Codes of 1899, relating to chambers of the district judge of the Seventh judicial district, be, and the same is hereby repealed.

Approved February 20, 1901.

---

#### CHAPTER 63.

[S. B. 29.]

#### DIRECTING JUDGMENTS.

AN ACT Authorizing District Courts and Also the Supreme Court of the State to Direct Judgment to be Entered in Certain Cases Instead of Granting a Motion For a New Trial.

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

§ 1. JUDGMENTS. DISTRICT AND SUPREME COURTS TO DIRECT.] In all cases where at the close of the testimony in the case tried, a motion is made by either party to the suit requesting the trial court to direct a verdict in favor of the party making such motion, which motion was

denied, the trial court on motion made that judgment be entered notwithstanding the verdict, or on motion for a new trial, shall order judgment to be entered in favor of the party who was entitled to have a verdict directed in his or its favor; and the supreme court of the state on appeal from an order granting or denying a motion for a new trial in the action in which such motion was made, or upon a review of such order or an appeal from the judgment, may order and direct judgment to be entered in favor of the party who was entitled to have such verdict directed in his, or its favor, whenever it shall appear from the testimony that the party was entitled to have such motion granted.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is now no adequate law on this subject, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

---

## COVENANTS OF WARRANTY.

---

### CHAPTER 64.

[S. B. 118.]

### COVENANTS OF WARRANTY.

#### AN ACT Concerning Covenants of Warranty.

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

§ 1. WARRANTY. HIGHWAYS.] That no covenants of warranty shall be considered as broken by the existence of a highway or railway upon the land conveyed, unless otherwise particularly specified in the deed.

Approved March 12, 1901.