

DEFENDANTS.

CHAPTER 67.

[S. B. 64.]

DEFENDANTS.

AN ACT to Amend Section 5260, Revised Codes of 1899, Relating to the Manner of Commencing Civil Actions.

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

§ 1. AMENDMENT.] Section 5260, Revised Codes, is hereby amended so as to read as follows:

§ 5260. WHEN DEFENDANT PERMITTED TO DEFEND.] The defendant upon whom service by publication is made, or his representatives, on application and sufficient cause shown at any time before judgment, must be allowed to defend the action; and, except in an action for divorce, the defendant upon whom service by publication is made, or his representatives, upon making it appear to the satisfaction of the court by affidavit (stating the facts), that he has a good and meritorious defense to the action, and that he had no notice or knowledge of the pendency of the action so as to enable him to make application to defend before the entry of judgment therein, and upon filing an affidavit of merits, may, in like manner, be allowed to defend after judgment, or at any time within one year after notice or knowledge thereof, and within three years after its entry, and on such terms as may be just; and if the defense is successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs; but the title to property sold under such judgment to a purchaser in good faith shall not be thereby affected. Any such defendant, who shall have received a copy of the summons and complaint in the action, mailed to him as provided in section 5256, or upon whom the summons and complaint shall have been personally served out of the state, as provided in section 5257, shall be deemed to have had notice of the pendency of the action, and of the judgment entered therein.

Approved March 11, 1901.