

COUNTY COURT

CHAPTER 99.

[S. B. No. 82—Murphy.]

AUTHORIZES COUNTY COURTS TO ACCEPT SURETY BONDS.

AN ACT Authorizing County Courts to Accept Surety Company Bonds for Executors, Administrators and Guardians for One-half the Amount Required When Personal Bonds are Furnished, Plus Ten Per Cent.

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

§ 1. SURETY COMPANY BONDS.] In all cases where bonds are required of executors, administrators or guardians under Section 8685 of the Compiled Laws of 1913, the court may in its discretion accept a surety company bond in lieu of a personal bond in a sum equal to not less than the aggregate value, as ascertained by the court, of the personal property and the rents, profits and income for one year of the real property belonging to the estate, plus ten per cent. And in all cases where an executor, administrator or guardian is required to give an additional bond as provided by Section 8686 of the Compiled Laws of 1913, the court may, in its discretion accept a surety company bond in lieu of a personal bond in a sum equal to not less than the probable amount to be realized upon the sale or mortgage, plus ten per cent.

Approved, February 18, 1915.

CHAPTER 100.

[S. B. No. 184—Hoverson.]

CHANGE OF VENUE IN NEW COUNTIES.

AN ACT to Define the Procedure for a Change of Venue of Probate Cases Pending in County Courts Where Counties have been Formed out of Territory Composed of Organized Counties.

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

§ 1. Whenever a proceeding shall be pending in a county court of a county in this state, which county shall have been divided and a new county formed from a part thereof, and such new county would be the proper county in which such proceeding should be instituted if the same was being instituted after the formation of such new county, the venue of such proceeding shall be changed to such new county upon application of any interested party. Such

change may be ordered by the court upon stipulation of all the interested parties to the proceeding who have appeared therein, or upon application notice for eight days by any interested party to all other parties that have appeared therein. Upon the filing of an order of the court changing the venue, the judge or clerk of court, if there be a clerk, shall at once certify and transmit to the county court of such new county all the original files and papers in such proceeding, together with a duly certified transcript of any proceedings or matters appearing in the permanent books or records of the court from which the proceeding is transferred.

There shall be no charge against any person on account of any such change of venue, but the work incident thereto shall be performed as a part of the official duty of the judge or clerk of the court, as the case may be.

Upon the filing of such original record, the court in which the same is filed shall have full jurisdiction of such proceeding the same as though originally brought therein.

Approved, March 9, 1915.

CHAPTER 101.

[S. B. No. 14—Jacobson.]

COSTS IN COUNTY COURTS WITH INCREASED JURISDICTION.

AN ACT to Amend and Re-enact Section 8957 of the Compiled Laws of North Dakota for 1913, Relating to Costs in County Courts Having Increased Jurisdiction.

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

§ 1. AMENDMENT.] That Section 8957 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 8957. COSTS.] When the prevailing party in a civil action has appeared therein by an attorney duly authorized to practice in the courts of this state, there shall be allowed for his re-imbursments and taxed the same costs and disbursements as provided by the Code of Civil Procedure when the amount exclusive of costs exceeds the sum of \$200.00 and no other costs or disbursements, and in all cases where less than \$200.00 is received, exclusive of costs, there shall be taxed and allowed to such prevailing party the same attorneys' fees and costs as are provided for in Sections 9107 and 9108 of the Compiled Laws of North Dakota of 1913.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and therefore this Act shall take effect immediately after its passage and approval.

Approved, February 26, 1915.

CHAPTER 102.

[S. B. No. 62—Jacobson.]

COUNTY COURTS WITH INCREASED JURISDICTION.

AN ACT Relating to County Courts Having Increased Jurisdiction, Fixing the Time to Answer in County Courts, Amending Sections 8944, 8945, 8949, 8952 and 8953 of the Compiled Laws of North Dakota for 1913, Relating to the Forms of Summons and Time to Answer Complaint, and in Garnishment Proceedings, and Providing for the Time of Service of Summons by Publication.

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

§ 1. AMENDMENT.] Section 8944 of the Compiled Laws of North Dakota for 1913 is hereby amended to read as follows:

§ 8944. REQUISITES OF SUMMONS.] The summons must contain the title of the action, specifying the court in which the action is brought, the name of the parties to the action, and shall be subscribed by the plaintiff or his attorney, who must add to his signature, his address, specifying a place within the state where there is a post office. The summons shall be substantially in the following form, the blanks being properly filled:

“STATE OF NORTH DAKOTA, } ss:
County of..... }

IN COUNTY COURT.

A. B.Plaintiff,

vs.

C. D.....Defendant.

SUMMONS.

The State of North Dakota to the above named defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer upon the subscriber within twenty days after the service of this summons upon you, exclusive of the day of service, and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

.....
Plaintiff.

.....
Post Office.

Dated.....”

§ 2. AMENDMENT.] Section 8945 of the Compiled Laws of North Dakota for 1913 is hereby amended to read as follows:

§ 8945. FILING AND SERVICE OF PLEADINGS.] A copy of the complaint need not be served with the summons. In such case the summons must state that the complaint is or will be filed with the

clerk of the county court in the county in which action is commenced, and if the defendant within twenty days thereafter causes notice of appearance to be given and in person or by attorney demands in writing a copy of the complaint, specifying a place within the state where it may be served, a copy thereof must within twenty days thereafter be served accordingly, and after such service the defendant has twenty days to answer, but only one copy need be served on the same attorney. Where the summons states that the complaint is or will be filed with the clerk of court and the same is not so filed within twenty days after the date of the service of such summons the action will be deemed discontinued.

§ 3. AMENDMENT.] Section 8949 of the Compiled Laws of North Dakota for 1913 is hereby amended to read as follows:

§ 8949. WHEN SERVICE COMPLETE.] Service by publication is complete upon the expiration of twenty-one days after the first publication of the summons, or in case of personal service of the summons and complaint upon the defendant outside of the state, upon the expiration of twenty days after the date of such service.

§ 4. AMENDMENT.] Section 8952 of the Compiled Laws of North Dakota for 1913 is hereby amended to read as follows:

§ 8952. GARNISHMENT SUMMONS.] In all garnishment proceedings the plaintiff shall attach to his affidavit for garnishment a garnishment summons, which shall be substantially in the following form:

“STATE OF NORTH DAKOTA, { ss:
County of..... {

IN COUNTY COURT.

A. B. Plaintiff,

vs.

C. D..... Defendant, and

E. F..... Garnishee.

The State of North Dakota to said Garnishee:

You are hereby summoned, pursuant to the annexed affidavit, as a garnishee of the defendant, C. D., and required within twenty days after the service of this summons upon you, exclusive of the day of service, to answer according to law, whether you are indebted to or have in your possession or under your control any property, real or personal, belonging to such defendant, and to serve a copy of your answer on the undersigned at..... in the County of.....; and in case of your failure so to do, you will be liable to further proceedings according to law; of which the said defendant will also take notice.

Dated.....

L. M., Plaintiff's Attorney,

P. O. Address.....County, N. D.”

§ 5. AMENDMENT.] Section 8953 of the Compiled Laws of North Dakota for 1913 is hereby amended to read as follows:

§ 8953. ANSWER OF GARNISHEE.] The affidavit or answer of the garnishee must be served upon the attorney for the plaintiff within twenty days after the service of the garnishment summons, and such answer must be filed in the office of the clerk of the county court, upon order of the court the same as other pleadings in a civil action.

Approved, February 24, 1915.

CHAPTER 103.

[H. B. No. 439—Grow.]

SALE OF REAL PROPERTY OF INSANE PERSON.

AN ACT to Amend and Re-enact Section 2579 of the Compiled Laws of North Dakota of 1913, Relating to Expenses Chargeable Against the Estate of Insane Persons.

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

§ 1. AMENDMENT.] Section 2579 of the Compiled Laws of North Dakota of 1913 is hereby amended and re-enacted to read as follows:

§ 2579. EXPENSES CHARGEABLE AGAINST THE ESTATE OF INSANE PERSONS.] The amount of expense incurred by any county in this state for treatment and maintenance of any insane person in the State Hospital for the Insane shall be charged against the estate of such insane person; *provided*, that the insane person has no heirs within the United States dependent upon said estate for support; and *provided*, further, that no real property shall be sold during the life of the insane person, except for the maintenance and support of the family of said insane person, or when it is shown to be for the best interests of the estate, and in either case only upon order of the proper court and with the consent of the Board of County Commissioners of the proper county, and further *provided* that no personal property shall be sold under five years from the date of sending such insane person to the State Hospital for the Insane, unless by order of the proper court, where such property is liable to deteriorate in value during the time above specified, and when sold as above the county court shall order the proceeds thereof to be safely invested for the benefit of such insane person, or be used for the support and maintenance of the family of such insane person.

§ 2. EMERGENCY.] Whereas, an emergency exists, this Act shall take effect and be in force from and after its passage and approval.

Approved, March 10, 1915.