

CRIMINAL PROCEDURE

CHAPTER 215
(S. B. No. 63—Baird)AFFIDAVIT OF PREJUDICE AND CHANGE OF VENUE IN
CRIMINAL CASES

An Act to Amend and Re-enact Section 10766 of the Compiled Laws of North Dakota for the Year 1913, Providing the Procedure Where Joint Affidavit is Filed in Criminal Cases, Alleging Prejudice Against the Judge and Also Asking for a Change in Place of Trial.

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

§ 1. AMENDMENT.] That Section 10766 of the Compiled Laws of North Dakota for the year 1913, be amended and re-enacted to read as follows:

§ 10766. Whenever an affidavit for a change of judges is filed in a criminal action, in accordance with the provisions of Chapter 331 of the 1923 Session Laws, and the party also asks for a change of the place of trial, upon any ground specified in Section 10756 of the Compiled Laws of North Dakota for the year 1913, the court shall proceed no further in the action, and shall thereupon be disqualified to do any further act in said cause; and in such case, the application for a change of place of trial shall be heard and determined by the judge designated by the Supreme Court to act in said action; provided that such affidavit shall be filed in duplicate not less than five days before the opening day of the term at which such action may be tried, except in cases where the defendant is held to the District Court for trial after said time.

Approved Feb. 3, 1927.

CHAPTER 216
(S. B. No. 64—Baird)

DUTY OF CLERK OF COURT IN APPEALS IN CRIMINAL CASES

An Act to Amend and Re-enact Section 11002, Compiled Laws of North Dakota for 1913, Relating to the Duty of the Clerk of the District Court When Appeals in Criminal Cases Are Taken and Completed.

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

§ 1. AMENDMENT.] That Section 11002 of the Compiled Laws of North Dakota for 1913 be, and the same is, hereby amended and re-enacted to read as follows:

§ 11002. Within 10 days after an appeal has been taken, it shall be the duty of the Clerk of the District Court with whom the notice of appeal is filed, without charge, to certify and transmit to

the Clerk of the Supreme Court the notice of appeal, undertaking and certificate of probable cause, if any, and a certified copy of the judgment or order appealed from; and upon the filing of the completed record in any appeal, it shall be the duty of said clerk to immediately transmit to the Clerk of the Supreme Court a full and perfect transcript of all papers on file in the case, of all entries in his minutes, the settled statement of the case and briefs, and certify the same under his hand and seal of the court, and the Clerk of the Supreme Court shall file the same and perform the same services as in civil cases without charge.

Approved Feb. 3, 1927.

CHAPTER 217
(S. B. No. 62—Baird)

TIME FOR APPEALS IN CRIMINAL CASES

An Act to Amend and Re-enact Section 10994, of the Compiled Laws of North Dakota for the Year 1913 as Amended by Chapter 125, of the Session Laws of North Dakota for the Year 1925, Relating to the Time for Taking and Completing Appeals to the Supreme Court in Criminal Cases.

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

§ I. AMENDMENT.] That Section 10994 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 125 of the Session Laws of North Dakota for the year 1925, be amended and re-enacted to read as follows:

§ 10994. An appeal from a judgment may be taken within three months after its rendition and from an order within sixty days after it is made. The appellant shall file the settled statement of the case and briefs on an appeal from a judgment in the office of the Clerk of District Court within six months after the date of judgment; and in an appeal from an order within sixty days after date thereof; provided that the District Court may, upon application of the appellant made upon notice to the adverse party before the expiration of said time in which such record shall be filed, extend such time for a period of not more than three months; and further extension may only be granted by the Supreme Court upon the application of the appellant upon like notice. In case of the failure of the appellant to file such record within the time allowed by law, or within such further time as may be allowed by the court as herein provided, said appeal shall be deemed dismissed.

Approved Feb. 5, 1927.

CHAPTER 218

(H. B. No. 138—Thompson of Ramsey by Request)

CHALLENGES OF JURORS CRIMINAL CASES

An Act to Amend and Re-enact Sections 10804 and 10805 of the Compiled Laws of North Dakota for the Year 1913, Relating to Challenges to Jurors in Criminal Cases.

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

§ 1. AMENDMENT.] That Section 10804 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows, to-wit:

§ 10804. DEFENDANT'S CHALLENGES.] In all criminal cases the defendant is entitled to the following:

1. When the offense charged is murder in the first degree, the defendant may challenge peremptorily twenty jurors.
2. In prosecutions for offenses other than murder in the first degree punishable by imprisonment in the penitentiary, ten jurors.
3. In other prosecutions, six jurors.

§ 2. AMENDMENT.] That Section 10805 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows, to-wit:

§ 10805. PROSECUTION CHALLENGES.] The prosecuting attorney when the offense charged is murder in the first degree, may challenge peremptorily twenty jurors; in prosecutions for offenses other than murder in the first degree punishable by imprisonment in the penitentiary, ten jurors; in other prosecutions, six jurors.

§ 3. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 19, 1927.

CHAPTER 219
(H. B. No. 128—Cox)

SEPARATE AND JOINT TRIALS

An Act to Amend and Re-enact Section 10833 of the Compiled Laws of North Dakota for 1913, Providing for Separate Trials When Two or More Defendants are Jointly Charged With Any Criminal Action.

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

§ 1. AMENDMENT.] That Section 10833 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 10833. Whenever two or more persons shall be jointly charged with any crime they shall be jointly tried, subject to the power of the court in its discretion, and for special reasons to order separate trials as to one or more of the defendants, and when tried jointly there may be joint or several convictions or acquittals, as the jury may determine the facts.

Approved February 16, 1927.

CHAPTER 220

(H. B. No. 135—Thompson of Ramsey, by Request)

PRELIMINARY EXAMINATION OF WITNESSES

An Act to Amend and Re-enact Section 10605 of the Compiled Laws of North Dakota for the Year 1913, Relating to Examination of Witnesses in Preliminary Examinations.

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

§ 1. That Section 10605 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows, to-wit:

§ 10605. HOW WITNESSES EXAMINED.] The witnesses must be examined in the presence of the defendant and may be cross-examined in his behalf. And where the offense charged is a felony on demand of the state or the defendant, all the testimony in the case must be reduced to writing in the form of depositions. When the offense charged is a misdemeanor, either the state or the defendant may elect to have said testimony taken and reduced to writing as aforesaid, but that in case the defendant so elects, the state shall not be required to pay the cost of such transcript. Provided that if the accused shall make and file with the committing magistrate his affidavit duly sworn to, stating that he is financially unable to pay the expense of transcribing such testimony, and that the transcript thereof is necessary to his proper defense, such transcript of testimony shall be made and a copy thereof delivered to such accused. That such affidavit shall not be made on information and belief.

Approved February 28, 1927.