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# ARBITRATION.

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## CHAPTER 20.

[S. F. 164.]

PROVIDING FOR TRIBUNALS OF CONCILIATION OR ARBITRATION.

AN ACT Providing for the Establishment of Tribunals of Conciliation or Arbitration.

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

§ 1. WHEN ARBITRATORS TO BE APPOINTED.] That whenever the parties to any suit pending in any court of record shall be desirous and willing to submit the matter involved in such suit to the decision of arbitrators, an order shall be entered directing such submission to three impartial and competent persons to be named in such order, such arbitrators to be agreed upon and named by the parties. But if the parties are unable to agree, each shall name one, and the court the third.

§ 2. TIME AND PLACE OF HEARING.] The arbitrators appointed in pursuance to the foregoing provisions, or a majority of them, shall proceed with diligence to hear and determine the matters in controversy. They shall appoint a place and time for hearing and adjourn the same from time to time, as may be necessary, but the first hearing shall be within ten days of the submission of the case and on the application of either party, and for good cause, they may postpone such hearing from time to time, not extending beyond sixty days from the submission of the case, except by the consent in writing of the parties to the suit.

§ 3. OATH.] Before proceeding to hear any testimony in the cause, the arbitrators shall be sworn to faithfully hear and determine the cause, and to make a true and just award, according to the best of their understanding, which oath may be administered by any officer authorized to administer oaths.

§ 4. SUBPŒNAES—HOW ISSUED—CONTEMPTS.] The clerk of the district court, or any justice of the peace, in any county of this State, may issue subpœnaes for the attendance of witnesses before arbitrators; if any witness after being duly summoned shall fail to attend, the arbitrators may issue an attachment to compel his attendance, and the said witness shall moreover be liable for refusing to attend the same as in trials at law. Any arbitrator may administer oaths and they may punish contempts committed in

their presence during the hearing of a cause, the same as a court of record, and may admit depositions to be read in evidence the same as in trials at law.

§ 5. AWARD OF ARBITRATORS.] The award of the arbitrators, or a majority of them, shall be drawn up in writing and signed by such arbitrators, or a majority of them, and a true copy of such award shall without delay be delivered to each of the parties thereto.

§ 6. PROCEDURE IN CASE OF FAILURE TO COMPLY WITH AWARD.] If either of the parties shall neglect to comply with the said award the other party may, at any time within one year from the time of such failure, file such award together with the submission or arbitration bond in the court named in the submission.

§ 7. FINAL JUDGMENT, EXECUTION, ETC.] The party filing such award may at the next term after such filing, by giving four days' notice of his intention to the opposite party, and if no legal exceptions are taken to such award, or other proceedings, have final judgment thereon, as on the verdict of a jury, for the sum specified in said award to be due, together with the costs of arbitration, and of the court, and execution may issue therefor as in other cases.

§ 8. CERTAIN JUDGMENTS ENFORCED BY RULE.] When the award requires the performance of any act other than the payment of money, the court rendering such judgment shall enforce the same by rule, and the party refusing or neglecting to comply with such rule may be proceeded against by attachment, or otherwise, as for contempt.

§ 9. WHEN AWARD MAY BE SET ASIDE.] If any legal defects appear in the award, or other proceedings, or if it shall be made to appear on oath or affirmation that said award was obtained by fraud, corruption or other undue means, said court may set aside such award.

§ 10. WHEN AWARD MAY BE MODIFIED.] If there be any evident miscalculation or misdescription, or if the arbitrators shall appear to have awarded upon matters not submitted to them not affecting the merits of the decision upon the matters submitted, or when the award shall be imperfect in some matters of form not affecting the merits of the controversy, and when such errors and defects, if in a verdict, could have been lawfully amended or disregarded by the court, any party aggrieved may move the court to modify or correct such award.

§ 11. APPLICATION TO SET ASIDE.] Application to set aside, modify or amend such award, as provided in the two preceding sections, may be made before the entry of final judgment on such award; *Provided*, Nothing herein contained shall be so construed as to deprive courts of chancery of their jurisdiction as in other cases.

§ 12. APPEALS.] Writs of error and appeals may be taken from any decision of the court, by the party deeming himself ag-

grieved, as in other cases, and if the Supreme Court shall remand the case such further proceedings shall be had as the nature of the case may require.

§ 13. FEES.] Each arbitrator shall be allowed for each day's attendance to the business of his appointment, two (2) dollars, to be paid in the first instance by the party in whose favor the award shall be made, but to be recovered of the other party with the other costs of suit if the award or final decision shall entitle the prevailing party to recover costs. Witnesses shall receive the same fees for attendance in arbitrations as shall be allowed them in the circuit [district] courts. Sheriffs, constables, clerks and justices of the peace shall be entitled to the same fees for services performed in relation to any arbitration as shall be allowed by law for the like services in their respective courts.

§ 14. SPEEDY HEARING TO BE HAD.] Arbitrators may be compelled by order of the court in which any cause submitted to them shall be pending to proceed to a hearing thereof and to make report without unnecessary delay.

§ 15. RECORD.] When any cause pending in any court shall be referred, as herein provided, an entry of such reference shall be made on the record, and day shall be given to the parties from time to time until the arbitrators' report, or they may be thereof discharged on filing such report.

§ 16. WHO MAY SUBMIT TO ARBITRATION.] All persons having requisite legal capacity, may by an instrument in writing to be signed and sealed by them, submit to one or more arbitrators any controversy existing between them, not in suit, and may in such submission agree that a judgment of any court of record competent to have jurisdiction of the subject matter to be named in such instrument shall be rendered upon the award made pursuant to such submission.

§ 17. OATH.] Upon a submission under the foregoing section the arbitrators shall take the same oath and may compel the attendance of witnesses and shall proceed in the same manner as if the submission had been made in a cause of pleading.

§ 18. FILING OF AWARD—ENTER OF JUDGMENT.] The award and instrument of submission may be filed in a court of record of competent jurisdiction within the same time and upon like conditions, and notice and proceedings had thereunder and judgment entered the same as if the award had been made in a suit pending in such court.

§ 19. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Approved March 20, 1890.