

BOARDS OF CONCILIATION.

CHAPTER 22.

[S. B. No. 16.]

MODE OF PROCEDURE.

AN ACT Providing for the Establishment of Boards of Conciliation, and Prescribing the Mode of Procedure in the Same, and to Repeal Chapter 45, Laws of 1893.

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

§ 1. ELECTION OF COMMISSIONERS.] There shall be elected at the same time and in the same manner as the justices of the peace in each town, incorporated village and city from the qualified voters thereof, four commissioners of conciliation whose term of office shall be two years and until their successors are duly elected and qualified. The time of commencement of their term of office shall be the same as that prescribed for justices of the peace.

§ 2. PROCEEDINGS BEFORE COMMISSIONERS.] At the time of issuing the summons in any civil action begun before a justice of the peace, or at any time afterward before the return day of such summons and only on the request of either party and by the consent of both parties in said action, the justice shall issue a subpoena summoning two (2) of the commissioners of conciliation elected for the town, village or city where the action is brought and the defendant or the plaintiff, as the case may require, to appear before him at some time prior to the hour designated in the summons, which subpoena shall be served in the same manner as a summons is required to be served in actions in the district court, and may be served by the party obtaining it issued and at any time before its return day. If either party fails to appear at the time designated in the subpoena it shall be so certified to the justice of the peace by the commissioners before the return hour of the summons in said action. If both parties appear they shall then go before the two (2) commissioners summoned, as aforesaid, and state their differences, which statements, or so much thereof, as is necessary to show the issue between the parties, shall be reduced to writing and shall constitute the pleadings in the case. The parties may then introduce evidence in order and under the restrictions prescribed by the commissioners and it shall be discretionary with the commissioners whether or not the witness shall be sworn before testifying, and if so required, one of the commissioners may administer the oath. After hearing all

the evidence offered it shall be the duty of the commissioners to the best of their ability to persuade the parties to agree to an amicable settlement of their differences on such terms as to them appear just and equitable. If an agreement is reached it shall be reduced to writing signed by the parties, certified to the justice, by him entered on his docket of the case, and shall then be a judgment of the court of said justice therein; *Provided*, That no agreement shall be entered unless it can be put in the form of a judgment now authorized by law to be entered by justices of the peace. At the hearing before the commissioners each party must appear in person, except in the case of non-resident parties or for cause, when a party may appear by an agent, duly authorized in writing. No attorney, except as such agent, nor the justice of the peace before whom the action is pending shall be allowed to appear or in any way act in the hearing before the commissioners. If at such hearing the parties fail to agree, it shall be so certified to the justice before the return hour of the summons, who may then proceed to trial and judgment as though no such hearing had been had therein, and the parties may be allowed to file amended pleadings.

§ 3. COMPENSATION OF COMMISSIONERS.] The commissioners shall receive the same mileage and per diem as jurors in justice courts. All fees and costs shall be included in the settlement and paid by the party designated therein, but in cases where the parties thereto fail to agree the costs shall be paid jointly by both parties unless otherwise agreed to. If a commissioner disobeys the subpoena of the justice he shall be proceeded against in the same manner as a juror who fails to appear when summoned by him.

§ 4. PROCEEDINGS NOT EVIDENCE AT SUBSEQUENT TRIAL.] No part of the proceedings had before the commissioners shall be admitted as evidence or considered at the trial of the case before the justice, nor shall any of the commissioners who took part in such hearing before them be allowed to testify therein.

§ 5. REPEAL.] That an act entitled, "An Act Providing for the Establishment of Courts of Conciliation, and Prescribing the Mode of Procedure in Same," being Chapter 45, Session Laws of 1893, relating to Courts of Conciliation, be and the same is hereby repealed.

§ 6. EMERGENCY.] *Whereas*, An emergency exists in this, that the justices and commissioners herein mentioned will be effected and have to act before July 1st, therefore this act shall take effect and be in force from and after its passage and approval.

Approved, March 14, 1895.