

No. 113, S.]

[Published May 23, 1919.]

## CHAPTER 199.

AN ACT to repeal section 3548 of the statutes, to create a new section to be numbered section 3548 of the statutes and to amend sections 3544, 3547 and 3549 of the statutes, relating to the appointment of arbitrators and their powers and duties.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section 3548 of the statutes is repealed.

SECTION 2. A new section is added to the statutes to be numbered and to read: Section 3548. Said arbitrators, or any of them, shall have the power to administer oaths, issue subpoenas, including subpoenas duces tecum, examine witnesses and order the production of books, papers and other documents. Service of subpoenas shall be made in the manner and by persons authorized by law as in the case of subpoenas issued out of circuit court. The fees of witnesses for travel and attendance shall be the same as the fees of witnesses before such circuit courts. Upon application of such arbitrators or any of them, the court referred to in section 3544, or any judge thereof, may compel the attendance of witnesses, the giving of testimony and the production of books, papers and other documents, by proceedings for contempt or otherwise in the same manner as though the proceedings were pending in such court. Provided, that witnesses shall not be required to testify on oath or affirmation unless it is so agreed by the parties or ordered by the arbitrators.

SECTION 3. Sections 3544, 3547 and 3549 of the statutes are amended to read: Section 3544. 1. All persons, except infants and persons under guardianship, may, by an instrument in writing, attested by one or more subscribing witnesses, submit to the decision of one or \* \* \* *three* arbitrators any controversy existing between them which might be the subject of a civil action, except as herein otherwise provided; and may, in such submission, agree that a judgment of any court of record, to be designated in such instrument, shall be rendered upon the award made pursuant to such submission. *If no court is designated by such instrument, then such judgment may be so rendered, by any court of record, having jurisdiction of the subject matter of such submission.*

2. *Unless otherwise provided by the submission, if the submission is to three arbitrators, one shall be named in writing by each of the parties, and the third arbitrator shall be chosen by written appointment of the two arbitrators, thus named. Any two arbitrators shall have similar power to appoint a third, in*

case of a vacancy caused by death, resignation, refusal or disability to act of the third arbitrator. Unless otherwise provided by the submission, if either party fails or refuses to appoint, or concur in the appointment of an arbitrator either originally or to fill a vacancy caused by death, resignation, refusal or disability to act of an appointee, or if the two arbitrators fail or refuse to concur in the appointment of a third arbitrator, either originally or to fill a vacancy, any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint, or concur in the appointment of, an arbitrator. If the appointment is not made within ten business days after service of said notice, any party not in default, may upon application to the court and such notice as the court may direct request the court to make such appointment, and the court shall thereupon make such appointment.

Section 3547. Before \* \* \* entering upon their duties the arbitrators shall be sworn faithfully and fairly to hear and examine the matters in controversy and to make a just award, according to the best of their understanding; which oath may be administered by any person authorized to administer oaths, and the oath to witnesses and other persons examined before them may be administered by them.

Section 3459. 1. All the arbitrators must meet together and hear all the proofs and allegations of the parties; but an award by a majority of them shall be valid unless the concurrence of all the arbitrators be expressly required in the submission.

2. *The award shall be conclusive, as to all findings of fact therein contained, except as herein otherwise provided.*

3. *The arbitrators may, on their own motion, and shall, at the request of a party:*

(a) *At any stage of the proceedings, submit any question of law, arising in the course of the reference, for the opinion of the court, stating the facts upon which the question arises, and such opinion, when given, shall bind the arbitrators, in the making of their award;*

(b) *State their final award, in the form of findings of fact, for the opinion of the court, on the questions of law arising, and such opinion shall finally conclude the proceeding, except as herein otherwise provided.*

4. *Parties may appear and be heard, before the arbitrators, by legal counsel or other representative, upon giving at least three days' notice of such intention to all adverse parties.*

SECTION 4. This act shall take effect upon passage and publication.

Approved May 20, 1919.