

SECT. XIII. *And be it further enacted by the authority aforesaid,* That the said commissioners shall perform and complete the duties enjoined upon them by this act, on or before the second Tuesday of December next, and they shall lay before the next legislature of this commonwealth a full statement of their proceedings, and of the expenses incurred by them, as wages to themselves, clerks, surveyors, and chain carriers, and markers; and that a sum not exceeding two thousand dollars be, and is hereby appropriated for the payment of such expenses, after the accounts of the said commissioners shall have been adjusted by the accountant officers.

Commissioners duties to be performed before the 2d Tuesday in December next. Accounts of to be laid before the next legislature.

JOHN WEBER, *Speaker*
of the House of Representatives.

P. C. LANE, *Speaker of the Senate.*

APPROVED--the nineteenth day of March, one thousand eight hundred and ten.

SIMON SNYDER.

CHAPTER CII.

An Act regulating Arbitrations.

SECT. I. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That, from and after the first day of May next, it shall and may be lawful for either party, his, her or their agent or attorney, in all civil suits or actions, pending, or that may hereafter be brought in any court of this Commonwealth, having either original or appellate jurisdiction of such suits or actions, to enter at the prothonotary's office, at any time after the entry of such suits or actions, excepting appeals to the register's court, or issues directed by the said court, a rule of reference, wherein the said party shall state his, her or their determination to have arbitrators chosen on a day certain, to be mentioned therein, not exceeding thirty days thereafter, for the trial of all matters in variance in such suit or action between the parties; which rule shall be entered on record by the prothonotary, and the following proceedings shall be had thereon: *that is to say,* The party, whether by his, her or their agent or attorney, or otherwise, entering the rule of reference, shall, under the penalty of ten dollars, to be recovered by the adverse party, as debts of equal amount are by law recoverable, procure from the prothonotary a copy thereof, under his hand and seal, and serve, or cause to be served, the same, or a copy thereof, on the opposite party, his, her or their agent or attorney, or if not to be found, leave a copy thereof at his, her or their last place of abode; giving at least ten days notice, in the city

After the first of May next all suits may be referred.

Appeals to the register's court excepted, &c.

Time of trial to be within 30 days after entry of the rule.

Copy of the reference to be served by the party entering the same.

Ten days notice of the time of meeting to be given in the city and 15 in the counties. What shall be proof of service. Each rule must be entered 30 days previous to the first day of the third term. Proviso as to suits subsisting in the courts 6 months previous to this act.

and county of Philadelphia, of the day and time when the arbitrators are to be chosen, and at least fifteen days notice of such time in the other counties of this Commonwealth; and the proof of service shall be the oath or affirmation of the person serving the same: *Provided always*, That no rule of reference shall be entered, unless such entry be made at least thirty days previous to the first day of the third term after such suit or action, has been brought: *And provided also*, That in such suits or actions, which may have been pending in any of the courts of this Commonwealth, more than six months previous to this act going into operation, such suits or actions shall not, without the consent of both parties, be referred in term time, or during the sitting of any court, at which such suit or action may have been marked for trial: *And provided also*, that in all civil suits or actions pending or that may be brought in any court of this commonwealth, wherein the commonwealth may be a party, either plaintiff or defendant, it shall be the duty of the attorney-general or his deputy, and they are hereby empowered and required to appear on the part of the commonwealth, and to do all such matters and things, in such civil suits or actions, as may be necessary, and is required by this act in similar cases.

How the arbitrators shall be chosen.

How the umpire shall be chosen.

SECT. II. *And be it further enacted by the authority aforesaid*, That where both parties attend, either by themselves, their agents or attorneys, the arbitrators shall be chosen in the following manner; *to wit*, The parties having first agreed as to the number of arbitrators, or, in case of disagreement, the number shall be fixed by the prothonotary, which shall be either three, five, or seven, the plaintiff shall, in the first place, nominate one person, if the number fixed upon be three; two, if the number be five; and three, if the number be seven; if all or either of them be objected to by the defendant, the plaintiff shall nominate other persons, in place of those objected to, until he nominates six persons for each and every person allowed to be by him nominated; and the same privilege shall be given to the defendant, and the like right to object be extended to the plaintiff; and in case the parties agree in the choice of arbitrators, as above directed, the umpire shall be chosen in the following manner: *to wit*, The parties shall nominate alternately, beginning with the plaintiff, seven persons, with liberty to each, or either of them in turn, to object to such nomination, and if all the persons thus nominated be objected to, the prothonotary shall name a suitable and disinterested person for the umpire; if he be objected to by either of the parties, the prothonotary shall name another, and so on until he name seven persons; if all are objected to, he shall make out a list of three suitable and disinterested persons, if the number of arbitrators be three; five, if the number of arbi-

trators be five; and seven, if the number of arbitrators be seven; the parties shall then strike out alternately, beginning with the plaintiff, until the name of only one person be left, who shall be the umpire.

SECT. III. *And be it further enacted by the authority aforesaid,* That if only one of the parties, their agents or attorneys, attend on the day appointed to choose arbitrators, it shall be the duty of the prothonotary to fix the number of arbitrators, and nominate for the absent party, and also object to the nominations made by the party present, if he thinks necessary: *Provided always,* That before the foregoing proceedings be had, if the party absent be the party who has not entered the rule of reference, proof shall be made, on oath or affirmation, that due notice was served on such party, agreeably to the provisions contained in the first section of this act.

If but one of the parties appear the Prothonotary shall nominate for the party absent. Oath of the service of notice to be made, in case, &c.

SECT. IV. *And be it further enacted by the authority aforesaid,* That when both parties attend, on the day appointed to choose arbitrators, either by themselves, their agents or attorneys, and a greater number of persons should be objected to than is above stated, the prothonotary shall make out a list containing the names of five suitable, disinterested persons, for each and every one of the number of arbitrators so as aforesaid agreed upon, or fixed by the prothonotary; from which list the parties, their agents or attorneys, shall strike out alternately, beginning with the plaintiff, until the number be left so agreed on or fixed, and the persons thus selected, shall be the arbitrators to determine such suit or action: *Provided always,* That if a part of the arbitrators be agreed upon by the parties, the above proceedings shall only be had to supply the deficiency, and complete the number of arbitrators agreed upon or fixed, as aforesaid.

How arbitrators shall be chosen, in case the parties cannot agree.

SECT. V. *And be it further enacted by the authority aforesaid,* That where only one party attends, on the day appointed to choose arbitrators, and the prothonotary nominates and objects for the absent party, and it should so happen that a greater number of arbitrators are objected to than is above stated, then the duties enjoined on the prothonotary, in the preceding section of this act, shall be performed either by the recorder of deeds, the sheriff, treasurer or coroner of the proper county.

Provido.

SECT. VI. *And be it further enacted by the authority aforesaid,* That the arbitrators chosen or appointed as aforesaid, shall reside within the city or county where the action or suit shall be pending; but no arbitrator shall be obliged to serve on more than ten trials in any one year.

Proceedings where but one party attends, and the prothonotary objects to a greater number than above stated.

SECT. VII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the prothonotary to fix a day and hour certain, on which the arbitrators shall meet, which shall be not less than ten nor more than twenty days, in the city and

Arbitrators to reside within the city or county, &c.

Prothonotary to fix the day of meeting.

Which shall not be more than 20 days in the city and county, nor 30 in the other counties, &c.

county of Philadelphia, and not less than twenty nor more than thirty days in the other counties of this commonwealth, after their appointment and the place of meeting of such arbitrators shall also be fixed by the prothonotary: *Provided always,* That if the parties can agree, they may fix the time when, and the place where the arbitrators are to meet.

SECT. VIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the party, his or their agent or attorney, entering the rule of reference, and he, she, or they, are hereby required, under the penalty of twenty dollars, to be recovered before a justice of the peace, or alderman, for the use of the adverse party, as debts under five dollars thirty-three cents are recoverable; to procure under the hand of the prothonotary, one certified copy of the record, containing the names of the arbitrators, the time when, and the place where the arbitrators are to meet. And serve a copy of the same on each of the arbitrators, and also on the opposite party, if such party live or reside in the county; if not, on his, her, or their agent or attorney, where such party has not attended by himself, his agent or attorney, on the day on which the arbitrators were chosen or appointed, giving at least eight days notice in the city and county of Philadelphia, and fifteen days in the other counties of the commonwealth, previous to the day of meeting; and the proof of such service shall be the oath or affirmation of the person serving the same.

Party entering the rule to serve a copy of the record, &c. on each of the arbitrators.
If the party reside out of the county, then notice to be given to his agent, &c.
Eight days, &c. previous to the meeting of the referees.
What shall be proof of service.
How vacancies, &c. are to be supplied.

SECT. IX. *And be it further enacted by the authority aforesaid,* That if any arbitrator or arbitrators shall refuse or neglect to attend, or be prevented by sickness or other unavoidable accident, a majority of the whole number of arbitrators and the parties being present, and where one of the parties be absent, unless prevented by sickness or other unavoidable cause, notice thereof being given to the arbitrators, the sufficiency of which shall be left to their discretion, it shall then be the duty of the arbitrators present or a majority of them (when the parties cannot agree on suitable persons to supply such vacancy) to appoint a competent number of persons in place of those who may be absent; and the arbitrators thus appointed, shall have the same authority as if appointed under the foregoing provisions of this act.

Arbitrators to be sworn or affirmed; and by whom.

SECT. X. *And be it further enacted by the authority aforesaid,* That the arbitrators thus appointed and met, shall be sworn or affirmed, either by an alderman or a justice of the peace, or in the following manner, *to wit:* One of the arbitrators shall swear or affirm the rest and either of them thus qualified, shall then swear or affirm such arbitrator; and they being all thus sworn or affirmed, justly and equitably to try all matters in variance, submitted to them, either of them shall have power to administer oaths or affirmations, to such persons called before them (as

And shall have power to administer oaths.

they or a majority of them shall believe to be proper, disinterested and competent witnesses) as well as to judge of the credibility of their testimony, and the propriety of admitting in evidence any written document that may be produced, and to call on either party to produce any books, papers or documents that they shall deem material to the cause, and likewise to decide the law and the fact, that may be involved in the cause to them submitted; and moreover, the said arbitrators or a majority of them that are present, shall have full power to adjourn their meetings from day to day, or for a longer time. And also from place to place if they think proper; and if both parties appear either by themselves, their attornies or agents before the arbitrators on the first or any subsequent day of meeting, or if any one of the parties be absent, unless prevented by sickness or some unavoidable cause, the sufficiency of which shall be left to the discretion of the arbitrators; then and in either case the arbitrators shall proceed to investigate, examine and decide the cause, suit or action to them submitted; and report their determination, and make out an award signed by all or a majority of them, and transmit the same to the prothonotary within seven days after they have agreed upon their report, who shall make an entry thereof on his docket, which, from the time of such entry shall have the effect of a judgment against the party against whom it is made, and be a lien on his real estate until such judgment be reversed on an appeal.

and of admitting testimony.

And to call for books, &c.

And to adjourn from time to time, &c.

And to determine on the sufficiency of excuses for absence.

Shall make out an award and transmit the same to the proth'y. within 7 days.

Which on being docketed, shall be a lien, &c.

SECT. XI. *And be it further enacted by the authority aforesaid,* That if either of the parties shall be dissatisfied or think him, her or themselves aggrieved by the report of arbitrators made as aforesaid, he, she or they shall have an appeal to the court in which the cause was pending at the time the rule of reference was entered, under the following rules, regulations and restrictions, *to wit:* The party appellant, whether plaintiff or defendant, his, her or their agent or attorney shall swear or affirm, that it is not for the purpose of delay such appeal is entered, but because such party firmly believes injustice has been done, and the party, his, her or their agent or attorney, shall enter such appeal with the prothonotary of the proper county, with the bail and recognizance hereinafter required, within twenty days after the entry of the award of the arbitrators on his docket, and if such appeal, bail and recognizance should not be entered within the time above mentioned, then it shall be the duty of the prothonotary, at the request of the party in favor of whom the report of the arbitrators shall have been made, to issue execution or such other process as may be necessary to carry into complete effect and operation such judgment obtained as aforesaid. *Provided always,* That where judgment has been rendered for any sum or sums of money, the like stay of execution shall be had under the like regula-

Appeal granted.

Under what conditions.

To be entered within twenty days, with bail and recognizance &c.

If bail &c. be not entered execution may issue.

tions as is provided by the seventh section of an act entitled "An act to regulate arbitrations and proceedings in courts of justice," passed the twenty-first of March one thousand eight hundred and six. *Provided also*, That no appeal shall be allowed to either party, until the appellant pay all the costs that may have accrued on such suit or action. *And provided also*, That the appellant shall not be permitted to produce as evidence in court, any books papers or documents which he or they shall have withheld from the arbitrators.

Appellant to pay costs. And to produce no new evidence.

If plaintiff appellant do not recover a greater sum on appeal, he shall pay all costs of the appeal &c.

SECT. XII. *And be it further enacted by the authority aforesaid*, That if the plaintiff be the appellant, he shall, by himself, his agent or attorney, with one or more sufficient sureties, be bound in recognizance with the prothonotary, the condition of which shall be, that if the said plaintiff shall not recover in the event of the suit, a sum greater or a judgment more favourable than the report of the arbitrators, he shall pay all costs that shall accrue in consequence of said appeal, and one dollar per day for each and every day lost by the defendant in attending on such appeal, which costs and daily pay shall be taxed and recovered as costs in other cases are recoverable.

Appellant when to recover costs.

SECT. XIII. *And be it further enacted by the authority aforesaid*, That the costs to be paid by the appellant, as required by the proviso of the eleventh section of this act, shall nevertheless, be taxed in the appellant's bill, and recovered of the adverse party in such cases only wherein the event of the suit the appellant is entitled to recover costs, agreeably to the provision contained in this act.

Defendant appellant shall pay all costs in case the plaintiff obtains a more favourable verdict &c.

SECT. XIV. *And be it further enacted by the authority aforesaid*, That if the defendant be the appellant, he shall, by himself, his agent or attorney, produce one or more sufficient sureties, who shall enter into a recognizance with the prothonotary, in the nature of special bail, the condition of which shall be, that if the plaintiff in the event of the suit, shall obtain a judgment for a sum equal to or greater, or a judgment as or more favorable than the report of the arbitrators, the said defendant shall pay all the costs that may accrue in consequence of said appeal, together with the sum or value of the property or thing awarded by the arbitrators, with one dollar per day for each and every day that shall be lost by the plaintiff in attending to such appeal, or in default thereof, shall surrender the defendant or defendants to the jail of the proper county, in discharge of the said recognizance, which sum, costs, and daily pay shall be recovered as is provided by the foregoing section of this act. *Provided*, That where executors or administrators may be the party appellant as aforesaid they shall have an appeal as is by law allowed in other cases.

Proviso as to executors

Suits in the common

SECT. XV. *And be it further enacted by the authority aforesaid*, That all suits now depending in the court of common

pleas of Philadelphia county, on appeals from the awards of arbitrators, made in pursuance of the act of the twenty-ninth day of March one thousand eight hundred and nine, while the said suits were depending in the supreme court in the eastern district, be, and the same are hereby transferred to the said supreme court, and considered to all intents and purposes, as if such appeals had been made to the said supreme court, and the like proceeding shall be had thereon in the said last mentioned court as if the appeal had been entered to the same.

pleas of Philadelphia county, on appeals &c. transferred to the supreme court of the eastern district.

SECT. XVI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the prothonotary of the court of common pleas of Philadelphia county, and he is hereby required immediately after the passing of this act, to transmit to the prothonotary of the supreme court of the eastern district, all the pleadings and other papers filed in said suits, together with a transcript of the record containing all the proceedings of the said court of common pleas in the suits aforesaid, and the said prothonotary of the supreme court of the eastern district is hereby required to receive and enter the same on his docket.

Duty of the prothonotary of the court of common pleas of Philadelphia county.

And of the prothonotary of the eastern district.

SECT. XVII. *And be it further enacted by the authority aforesaid,* That the prothonotary of the proper county, an alderman, or a justice of the peace, or either of the arbitrators shall have power to issue subpoenas for witnesses, and if necessary, attachments to compel their attendance; and the form of the subpoena shall be as follows, *viz.*

By whom witnesses may be subpoenaed. And attached.

County, *ff.*

The Commonwealth of Pennsylvania,

To

Greeting:

Form of subpoena.

We command you and each of you that you be and appear in your proper persons before A. B. C. D. &c. Arbitrators, appointed to hear and decide all matters in variance between the parties in a certain action, wherein E. F. is plaintiff, and G. H. defendant, at the house of I. K. in the township of _____ on the _____ day of _____ next, then and there to give evidence on the part of the (plaintiff or defendant as the case may be); hereof fail not under the penalty which may ensue.

Witness my hand the _____ day of _____ A. D.

(Signed) _____ L. M.

one of the arbitrators.

And the form of the attachment shall be as follows, *viz.*

County, *ff.*

The Commonwealth of Pennsylvania,

To the constable of the township of _____

We command you that you take

the county aforesaid and have him forthwith before A. B. C. D. &c. arbitrators, appointed to hear and decide all matters in variance between the parties in a certain action, wherein

late of Form of attachment.

E. F. is plaintiff, and G. H. Defendant, at the house of
in the township of _____ then and there
to answer to such matters and things as shall be objected
against him and not depart without leave.

Witness my hand the _____ day of _____ A. D.
(Signed) _____ I. K. one of the arbitrators.

Where a majority of the arbitrators do not attend, others may be appointed. And by whom.

SECT. XVIII. *And be it further enacted by the authority aforesaid,* That in case a majority of arbitrators shall not attend on the day appointed for them to meet, the arbitrator or arbitrators attending shall (where the parties, they being both present cannot agree) appoint a number of suitable persons in the place of those absent, and if but one of the parties be present, the arbitrator or arbitrators present shall appoint such persons to supply the vacancy without consulting the party attending.

Penalty on attempting to corrupt or influence the arbitrators.

SECT. XIX. *And be it further enacted by the authority aforesaid,* That if either of the parties, their agents, or attorneys, or any other person for them, shall, after the appointment of any arbitrators, attempt to corrupt or influence any arbitrator or arbitrators, by privately endeavouring, either in conversation, written evidence or correspondence, to bias the mind or judgment of such arbitrator or arbitrators in favor of such party, he, she or they, so offending, shall forfeit and pay the sum of twenty-five dollars, one half to the prosecutor and the other half to the use of the proper county, to be recovered on conviction before an alderman or justice of the peace in the proper county where the offence may have been committed; and it shall be the duty of the respective prothonotaries to read this section in open court on the Wednesday of each term for two years, and likewise to the parties, their agents or attorneys, if they or either of them, attend on the day on which the arbitrators are appointed.

How to be appropriated. And recovered. Prothonotaries to read this section in open court &c.

Rule may be entered for taking the depositions of absent witnesses, &c.

SECT. XX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the prothonotary on application by both or either of the parties, their agents or attorneys, to enter a rule to take the depositions of aged, infirm, going or absent witnesses, or those out of the state, in the same manner and subject to the same rules and regulations now observed in the courts of this commonwealth.

Arbitrators may punish by fine, any misbehaviour committed in their presence.

SECT. XXI. *And be it further enacted by the authority aforesaid,* That the arbitrators or a majority of them shall have power by fine not exceeding twenty dollars, to punish either of the parties, their agents or attorneys, or other person or persons, for disorderly conduct in their presence, or for insulting, disturbing or interrupting the arbitrators when on business, which fine shall be recovered in the following manner; the arbitrators or a majority of them shall make out a certificate in the following form:—

How said fine shall be recovered.

" We the undernamed arbitrators do certify that A. B. did Form of certificate.
 this day at _____ in the county of _____
 before us conduct himself in an insolent and disorderly manner (or as the case may be) tending to insult, disturb and interrupt us in the trial of a certain cause wherein J. D. is plaintiff and U. W. is defendant, for which offence we have fined the said A. B. the sum of _____ dollars, which sum you are hereby required to collect according to law.

Witness our hands this _____ day of _____ in the year of our Lord.

A. B. }
 C. D. } Arbitrators."
 E. F. }

Which certificate shall be transmitted to an alderman, or a justice of the peace, who is hereby required to make a record thereof, and to collect the same in the manner that debts under five dollars thirty-three cents are by law collected, which sum, when recovered and collected, shall be paid by such justice to the county-treasurer, for the use of the proper county where the offence may have been committed. Certificate to be transmitted to a justice, &c. How the fine shall be collected and appropriated.

SECT. XXII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the prothonotaries of the respective counties to transmit to the secretary of the commonwealth, in the month of December, annually, a correct statement of the number of cases referred under this act, classed under their proper title, the number of awards made by the arbitrators, and the number of appeals from such awards, and the reversal thereof classed as aforesaid, which statements the secretary shall lay before the legislature. The Prothonotaries to report annually the number of cases referred And the number of appeals.

SECT. XXIII. *And be it further enacted by the authority aforesaid,* That in all cases where a reference has been had under the act of assembly, passed the twenty-ninth day of March, one thousand eight hundred and nine, entitled "An act to regulate arbitrations and proceedings in courts of justice;" and from the report of the referees either of the parties has entered an appeal and have entered bail for the prosecution of said appeal but the recognizance may not have been taken in the terms prescribed by that act, the said neglect shall not be judged a hindrance or bar to the prosecution of said appeal, but the same shall be prosecuted in, and such bail shall be liable at the termination of the appeal according to the true intent and meaning of his recognizance. Appeals from awards made under former acts, not to be affected by an objection to the form of the recognizance &c.

SECT. XXIV. *And be it further enacted by the authority aforesaid,* That the fees to be allowed to constables or other persons, to carry the provisions of this act into operation, shall be the same as the fees allowed by law to constables for similar services, and the like penalty inflicted for neglect of duty. Fees allowed.

SECT. XXV. *And be it further enacted by the authority aforesaid,* That the arbitrators respectively, shall receive the sum of one dollar for each and every day necessarily spent by them in the investigation of any cause to them submitted under the provisions of this act; but they shall receive no daily pay or other compensation, unless they make their report and transmit the same to the prothonotary within seven days after they shall have agreed upon the same.

SECT. XXVI. *And be it further enacted by the authority aforesaid,* That in case any one or more arbitrator or arbitrators chosen and notified as aforesaid, shall neglect or refuse to attend and take upon him or themselves the duties of their appointment, each of them so offending, shall for every such offence, forfeit and pay the sum of two dollars, to be recovered by either party before an alderman or a justice of the peace, in the same manner as debts of equal amount are by law recoverable; unless he or they, can satisfy such alderman or justice, that his or their absence was occasioned by sickness or some other unavoidable cause.

SECT. XXVII. *And be it further enacted by the authority aforesaid,* That the prothonotaries are hereby authorized and empowered to administer the oaths or affirmations required by this act, to prove the service of notices and obtain appeals.

SECT. XXVIII. *And be it further enacted by the authority aforesaid,* That the act to regulate arbitrations and proceedings in courts of justice, passed the twenty-first day of March, one thousand eight hundred and six, and the act supplementary thereto, passed the thirteenth day of April, one thousand eight hundred and seven, and a further supplement thereto, passed the twenty-fourth of March, one thousand eight hundred and eight, shall be and the same are hereby rendered perpetual, any thing in said acts to the contrary notwithstanding.

SECT. XXIX. *And be it further enacted by the authority aforesaid,* That after this act shall come into operation, so much of any law or laws as is or are hereby altered or supplied, be and the same is hereby repealed.

JOHN WEBER, *Speaker*
of the House of Representatives.
P. C. LANE, *Speaker of the Senate.*

APPROVED—the twentieth day of March, one thousand eight hundred and ten.

SIMON SNYDER.

CHAPTER CIII.

An ACT confirming the title of James Parry to a tract of land in Chester county.

WHEREAS it appears by the petition of James Parry, of Westown township, in Chester county, that on the first