

board, and shall be paid by the county from the county treasury in the manner provided by law.

Section 2. All acts and parts of acts inconsistent with this act are hereby repealed. Repeal.

APPROVED—The 25th day of April, A. D. 1927.

JOHN S. FISHER

No. 247

AN ACT

To repeal an act, approved the fourth day of March, one thousand eight hundred and eighty-seven (Pamphlet Laws, four), entitled "A supplement to an act, entitled 'An act to fix the salaries of the several State officers of the Commonwealth, the number of clerks to be employed in the several departments, and their compensation, and providing for the incidental expenses of said department,' approved May fourteenth, one thousand eight hundred and seventy-four, increasing the salary of the Deputy Attorney General and providing for the number of clerks and employes in the Attorney General's office; also fixing the salary of the keeper of the Harrisburg Arsenal and the salary of the six men employed at the State Arsenal."

Section 1. Be it enacted, &c., That an act, approved the fourth day of March, one thousand eight hundred and eighty-seven (Pamphlet Laws, four), entitled "A supplement to an act, entitled 'An act to fix the salaries of the several State officers of the Commonwealth, the number of clerks to be employed in the several departments, and their compensation, and providing for the incidental expenses of said department,' approved May fourteenth, one thousand eight hundred and seventy-four, increasing the salary of the Deputy Attorney General and providing for the number of clerks and employes in the Attorney General's office; also fixing the salary of the keeper at the Harrisburg Arsenal and the salary of the six men employed at the State Arsenal," be and the same is hereby repealed.

Salaries of State officers.

Act of March 4, 1887 (P. L. 4), repealed.

APPROVED—The 25th day of April, A. D. 1927.

JOHN S. FISHER

No. 248

AN ACT

Concerning arbitration, and to make valid and enforceable written provisions and agreements for the arbitration of disputes in certain contracts, including contracts to which the State or any municipal subdivision thereof may be a party; regulating the procedure under such provisions and agreements; and conferring certain powers and imposing certain duties upon the courts with reference thereto.

Section 1. Be it enacted, &c., That—
Validity of Arbitration Agreements.—A provision in any written contract, except a contract for personal services, to settle by arbitration a controversy there-

Arbitration agreements.

after arising out of such contract, or out of the refusal to perform the whole or any part thereof, or an agreement in writing between two or more persons to submit to arbitration any controversy existing between them at the time of the agreement to submit, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.

Stay of proceedings.

Section 2. Stay of Proceedings Brought in Violation of Arbitration Agreement.—If any suit or proceeding be brought upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall, on application of one of the parties, stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.

Petition.

Notice.

Hearing.

Dismissal of proceedings.

Order to proceed.

Section 3. Remedy in Case of Default; Jurisdiction; Petition and Notice; Hearing and Proceedings.—The party aggrieved by the alleged failure, neglect, or refusal of another to perform under a written agreement for arbitration, may petition the court of common pleas of the county having jurisdiction for an order to show cause why such arbitration should not proceed in the manner provided for in such agreement. Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by law for the service of a summons. The court shall hear and determine the matter upon the petition and answer and depositions, or, after hearing of the parties in open court, as the court may determine; and the court, upon being satisfied that the making of the agreement for arbitration or the failure to comply therewith is not at issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement. If the making of the arbitration agreement, or the failure, neglect, or refusal to perform the same, be at issue, the court shall proceed summarily to the trial thereof. If a jury trial be waived by the parties, the court shall hear and determine such issue, or, if a jury trial be not waived, the court shall direct that a jury trial of such issue shall be had at the earliest possible date. If the jury, or the court if a jury trial be waived, find that no agreement in writing for arbitration was made, or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury, or the court, if a jury trial be waived, find that an agreement for arbitration was made in writing and that there is a default in proceeding thereunder, the court shall make an order sum-

marily directing the parties to proceed with the arbitration in accordance with the terms thereof.

Section 4. Appointment of Arbitrators.—If in the agreement provision be made for a method of naming or appointing arbitrators or an umpire, such method shall be followed, but if no method be provided therein, or if a method be provided and any party thereto shall fail to avail himself of such method, or if for any other reason there shall be a lapse in the naming of arbitrators or an umpire or in filling a vacancy or if any such arbitrators be disqualified to sit, then, upon the application of either party to the controversy, the court shall designate and appoint arbitrators, or an umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein, and, unless otherwise provided in the agreement, the arbitration shall be by a single arbitrator. If one of the arbitrators dies, or if for any reason becomes incapacitated, after a partial submission of the matter in controversy to the arbitrators, then, unless the parties agree to proceed with the remaining arbitrators, if any, or to proceed by adding a new arbitrator to fill the vacancy, the said arbitration shall be considered void and of no effect, and the parties shall proceed ab initio.

Appointment of arbitrators.

Appointment by the court.

Failure of the arbitration.

Section 5. Court to Make Rules.—The respective courts of common pleas shall have the power to make and adopt rules concerning procedure and practice under this act, as shall seem to them proper, except that no rule shall make any provision contrary to the express provisions of this act.

Rules.

Section 6. Witnesses; Summoning; Compelling Attendance; Taking of Testimony.—When more than one arbitrator is agreed to, all the arbitrators shall sit at the hearing of the case, unless, by consent in writing, all parties shall agree to proceed with the hearing with a less number. The arbitrators selected, either as prescribed in this act or otherwise, may summon in writing any person to attend before them or any of them as a witness, and, in a proper case, to bring with him or them any book, record, document, or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses in courts of general jurisdiction. The summons shall issue in the name of the arbitrators and shall be directed to the said person, and shall be served in the same manner as subpoenas to appear and testify before the court. If any person or persons, so summoned to testify, shall refuse or neglect to obey said summons, upon petition, the court of common pleas of the county in which such arbitrators are sitting may, upon proof to the court that the testimony is proper and that the witness could be compelled to appear

Witnesses.

Number of arbitrators who shall sit.

Summoning witnesses and documents.

Fees.

Service of summons.

Power to compel attendance.

- under existing law had the action been an action at law, compel the attendance of such person or persons before said arbitrators, or punish said person or persons for contempt, in the same manner now provided for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of this State.
- Contempt.**
- Taking testimony.** All testimony shall be taken under oath or affirmation, as is now provided in suits at law, and shall, at the request of either party or the arbitrators, be taken stenographically and made a part of the record.
- Depositions.** Section 7. Depositions.—Upon petition, approved by the arbitrators, the court may direct the taking of depositions on behalf of any party, to be used in evidence before the arbitrators, in accordance with existing law in respect to depositions.
- Award.** Section 8. Award.—The award shall be in writing and shall be signed by the arbitrators, or a majority of them, and a signed copy delivered to each party to the arbitration. If there be more than one arbitrator, an award shall require the concurrence of a majority of the arbitrators, but unanimous concurrence shall not be necessary unless there be less than three arbitrators.
- Confirmation of award.** Section 9. Motion to Confirm Award; Jurisdiction; Notice.—At any time within one year after the award is made any party to the arbitration may apply to the court having jurisdiction for an order confirming the award, and thereupon the court shall grant such an order, unless the award is vacated, modified, or corrected as prescribed in the next two sections. Notice in writing of the application shall be served upon the adverse party or his attorney five days before the hearing thereof.
- Vacation of award.** Section 10. Motion to Vacate Award; Grounds; Rehearing.—In either of the following cases the court shall make an order vacating the award upon the application of any party to the arbitration:
- (a) Where the award was procured by corruption, fraud, or undue means.
 - (b) Where there was evident partiality or corruption on the part of the arbitrators, or any of them.
 - (c) Where the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or any other misbehavior by which the rights of any party have been prejudiced.
 - (d) Where the arbitrators exceeded their powers or so imperfectly executed them that a final and definite award upon the subject matter submitted was not made.
- Order directing rehearing.** Where an award is vacated and the time within which the agreement required the award to be made

has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.

Section 11. Motion to Modify or Correct Award; Grounds.—In either of the following cases the court shall make an order modifying or correcting the award upon the application of any party to the arbitration:

Modification of award.

(a) Where there was an evident material miscalculation of figures, or an evident material mistake in the description of any person, thing, or property referred to in the award.

(b) Where the arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matters submitted.

(c) Where the award is imperfect in matter of form not affecting the merits of the controversy.

(d) Where the award is against the law, and is such that had it been a verdict of the jury the court would have entered different or other judgment notwithstanding the verdict.

The court may modify and correct the award or re-submit the matter to the arbitrators.

Section 12. Judgment Upon Award.—Upon the granting of an order confirming, modifying, or correcting an award, judgment shall be entered in conformity therewith in the court wherein the order was granted.

Judgment.

Section 13. Notice of Motions When Made; Service; Stay of Proceedings.—Notice of a motion to vacate, modify, or correct an award shall be filed in the prothonotary's office of the court in which the application is made, and to be served upon the adverse party, or his attorney, within three months after the award is filed, or delivered, as prescribed by law for service of notice of a motion in an action. The court may in all proper cases, upon the filing of the motion, grant a stay of proceedings pending the determination of the motion.

Motion to vacate, modify or correct award.

Notice.

Stay.

Section 14. Record; Filing; Judgment; Effect and Enforcement.—Any party to a proceeding for an order confirming, modifying, or correcting an award, shall, at the time such order is filed with the prothonotary for the entry of judgment thereon, also file the following papers with the prothonotary:

Papers to be filed on entry of judgment.

(a) The agreement, the selection or appointment, if any, of an additional arbitrator or umpire, and each written extension of the time, if any, within which to make the award.

(b) The testimony, if taken stenographically.

(c) The award.

(d) Each notice, affidavit, or other paper, used upon an application to confirm, modify, or correct the award, and a copy of each order of the court upon such an application.

Docketing.

The arbitration shall be docketed in the prothonotary's office as if it were an action at law in the prothonotary's office, with the moving party as plaintiff and the other parties as defendant or defendants.

Effect of judgment.

The judgment so entered shall have the same force and effect, in all respects as, and be subject to, all the provisions of law relating to a judgment in an action at law, and it may be enforced as such in accordance with existing law.

Appeals to Superior and Supreme Courts.

Section 15. Appeals.—An appeal may be taken from an order confirming, modifying, correcting, or vacating an award, or from a judgment entered upon an award, in accordance with the existing law in respect to appeals to the Superior and Supreme Courts.

State and municipal contracts.

Section 16. State and Municipal Contracts.—The provisions of this act shall apply to any written contract to which the Commonwealth of Pennsylvania, or any agency or subdivision thereof, or any municipal corporation or political division of the Commonwealth shall be a party.

Declaratory judgments.

Section 17. Application for Declaratory Judgments.—The arbitrators, or the parties to the arbitration with the approval of the arbitrators, shall have the right to apply to the court, at any time during the arbitration proceedings, for the determination of any legal question in accordance with the terms of the Uniform Declaratory Judgments Act. Such an application, however, shall not operate as a stay of proceedings, unless the said arbitrators consent to such stay of proceedings.

"Arbitrators."

Section 18. Definitions.—Wherever the word arbitrators is used in this act it shall mean a single arbitrator, if there be but one, or at least a majority of the arbitrators if there be more than one.

"Courts."

Except as otherwise specifically indicated, all references in this act to the courts are to be construed to mean the common pleas courts of the county having jurisdiction of the parties or the subject matter. If prior to the award, any court of common pleas shall have entertained any motion in respect to said arbitration, such court shall retain jurisdiction, and all subsequent proceedings shall be filed in said court. If there be no proceedings prior to the award, the arbitrators may, in the award, designate the county in which subsequent proceedings shall be had. If the arbitrators fail to designate such county, and there shall have been no prior proceedings, the moving party may proceed in the county in which (a) the arbitrators made their reports, or (b) the county in which the other party resides, or has an office, or (c) the county in which the court would have had jurisdiction if an action had been instituted originally in respect to the subject matter of the arbitration.

Where court has entertained motion prior to award.

Designation of jurisdiction.

Jurisdiction in other cases.

Section 19. Inconsistent Acts Repealed; Time of Taking Effect; Application.—All acts and parts of acts inconsistent with this act are hereby repealed; and this act shall take effect upon its enactment but shall not apply to contracts made prior to the taking effect of this act. If any part of this act shall be declared to be invalid or unconstitutional, the remaining parts hereof shall be and remain the valid act of the Legislature.

Repeal.

Effective date.

Severability of act.

APPROVED—The 25th day of April, A. D. 1927.

JOHN S. FISHER

No. 249

AN ACT

To further amend paragraph six of section one of an act, approved the twenty-seventh day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, eight hundred and fifty-eight), entitled "An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," by extending its provisions to certain employes in offices of registers of wills.

Section 1. Be it enacted, &c., That paragraph six of section one of an act, approved the twenty-seventh day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, eight hundred and fifty-eight), entitled "An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds from contributions by the Commonwealth and contributing State employes, defining the uses and purposes thereof, and the manner of payments therefrom, and providing for the guaranty by the Commonwealth of certain of said funds; imposing powers and duties upon the heads of departments in which State employes serve; excepting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties," which was amended by an act, approved the sixth day of April, one thousand nine hundred and twenty-five (Pamphlet Laws, one hundred and forty-seven), entitled "An act to amend paragraph six of section one of the act, approved the twenty-seventh day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, eight hundred fifty-eight), entitled 'An act establishing a State employes' retirement system, and creating a retirement board for the administration thereof; establishing certain funds

State employes' retirement system.

Section 1 of act of June 27, 1923 (P. L. 858), as amended by act of April 6, 1925 (P. L. 147), further amended.