

Notice and
recognizance.
Court to hear
and determine
the matter, and
award costs.

Its judgment to
be final.
If apprentice
be delinquent,
court to extend
the term of ser-
vice.

being given, and of entering into such recognizance as aforesaid, shall and are hereby directed to proceed in, and hear, and finally determine the causes and matters of all such appeals, and give and award such costs to any of the respective parties as they in their discretion shall judge proper and reasonable, not exceeding twelve dollars; the same to be levied by distress and sale of the goods and chattels of such person against whom such determination shall be made, and that their judgments therein shall be final and conclusive to all parties concerned; and if the servant or apprentice shall be found to be delinquent, he or she shall be sentenced by the said court to serve, at its discretion, so much longer time as the court shall deem proper.

APPROVED, January 18, 1839.

ARBITRATORS AND REFEREES.

AN ACT concerning reference to Arbitration, by agreement before a Justice of the Peace; or to Referees, by agreement before the District Court.

Controversies
may be submit-
ted to arbitra-
tion.

Parties to sign
an agreement
before a justice
of the peace.
Form of the
agreement.

SEC. 1. All controversies which might be the subject of a personal action at law, or of a suit in equity, may be submitted to the decision of one or more arbitrators in the manner provided in this act.

SEC. 2. The parties shall appear in person, or by their lawful agents or attornies, before any justice of the peace, and shall there sign and acknowledge an agreement, in substance as follows: Know all men, that _____ of _____ and _____ of _____ have agreed to submit the demand, a statement whereof is hereto annexed, [and all other demands between them, as the case may be,] to the determination of _____, _____, and _____, the award of whom, or the greater part of whom, being made and reported within one year from this day to the district court for the county of _____, the judgment thereon shall be final; and if either of the parties shall neglect to appear before the arbitrators, after due notice given them of the time and place appointed for hearing the parties, the arbitrators may proceed in his absence. Dated this _____ day of _____ in the year _____. And the justice shall subjoin to the said agreement his certificate, in substance as follows:

Justices certi-
ficate.

_____ ss _____, _____ Then the above named _____ and _____ personally appeared (or the above named

— personally, and the said —, by the said —, his attorney, appeared, as the case may be) and acknowledged the above instrument, by them signed, to be their free act, before me — — justice of the peace.

SEC. 3. If any specific demand is submitted to the exclusion of others, the demand submitted shall be set forth in the statement annexed to the agreement, otherwise it shall not be necessary to annex any statement of a demand, and the words in the agreement relating to such statement may be omitted, and the submission may then be of all demands between the parties, or of all demands which either of them has against the other; or the submission may be varied in this respect in any other manner, according to the agreement of the parties.

Submission of all demands between the parties, or of any specific demand.

SEC. 4. No such agreement to submit all demands shall include any demands but such as might be the subject of a personal action at law, or of a suit in equity.

What demands shall be included in the agreement to submit.

SEC. 5. Neither party shall have power to revoke a submission, made as herein provided, without the consent of the other; and if either of them shall neglect to appear before the arbitrators, after due notice, the arbitrators may nevertheless proceed to hear and determine the cause, upon the evidence produced by the other party, as provided in the agreement of submission.

Submission not to be revoked by either party, without consent of the other. If either party neglect to appear, arbitrators may proceed.

SEC. 6. The time within which the award shall be made and reported, may be varied, according to the agreement of the parties; and no award made after that time shall have any legal effect or operation, unless made upon a recommitment of the award by the court to which it is reported.

When the award shall be reported.

SEC. 7. The award shall be delivered by one of the arbitrators to the court designated in the agreement, or shall be enclosed and sealed by them and transmitted to the court, and shall remain sealed until opened by the clerk.

Delivery or transmission of the award.

SEC. 8. The court to which the award is returned shall have cognizance thereof in like manner, and like proceedings shall be had thereon, as if it had been made by referees appointed by a rule of the same court.

Court to have cognizance thereof

SEC. 9. The award may be accepted or rejected by the court for any legal and sufficient reason, or it may be recommitted to the same arbitrators for a re-hearing by them; and when an award is accepted

Court may accept or reject award, or recommit to the arbitrators.

If confirmed, judgment to be rendered. and confirmed by the court, judgment shall be rendered thereon in like manner as upon a like award made by referees appointed by a rule of the court, and execution shall issue accordingly.

Award may be returned at any session within the time limited. Parties to attend. SEC. 10. The award may be returned at any term or session of the court that shall be held within the time limited in the submission, and the parties shall attend at every such term or session without any express notice for that purpose, in like manner as if an action for the same cause were pending between them in the same court; but the court may require actual notice to be given to either party, when it shall appear to them necessary or proper, before they proceed to act upon the award.

Majority of arbitrators may make award. SEC. 11. All the arbitrators shall meet and hear the parties, but an award by a majority of them shall be valid, unless the concurrence of the whole be expressly required in the submission.

Award for costs, including compensation to arbitrators. Court may reduce compensation. SEC. 12. If there is no provision in the submission concerning the costs of the proceedings, the arbitrators may make such award respecting the costs as they shall judge reasonable, including therein a compensation for their own services; but the court may reduce the sum charged for the compensation of the arbitrators if it shall appear to them unreasonable.

Appeal from district court not allowed, but the aggrieved party may bring writ of error. SEC. 13. No appeal shall be allowed from any order or judgment of the district court, upon any award made under this act, but any party aggrieved by such judgment may bring a writ of error, for any error in law or fact, as in other cases, and the supreme court shall thereupon render such judgment as the district court ought to have rendered.

Fees to justice of the peace, and in district court. SEC. 14. The fees of the justice of the peace for making out the agreement of submission, and certifying the acknowledgment thereof, shall be fifty cents; and the fees payable in the district court shall equal those for the like services with respect to an award made under a rule of that court.

Court, on application, may permit litigants to refer the cause to three persons. SEC. 15. *Be it further enacted.* That whenever it shall appear in any cause pending in any district court, by the oath of either party, or otherwise, that the trial of the same will require the examination of a long account on either side, such court may, on application, and by and with the consent of both parties, permit them to enter into an agreement before the court to refer such cause to three persons, naming them in said agreement, which shall be

certified by the clerk, and filed in his office: *Provided*, Provido, touching the third person. that if the parties cannot agree on the third person, the court may name him.

SEC. 16. The like course shall be had with the award of such referees, as herein directed for arbitrators awards, and both referees and arbitrators shall have power to adjourn, from time to time, on good cause shown, and any one of them may administer the necessary oaths to witnesses. Subpœnas for witnesses before referees shall issue from the district court as in other cases; before arbitrators from a justice of the peace. The costs of reference shall be taxed as other costs of suit, and, if not otherwise provided for, may be determined by the district court.

APPROVED, January 25, 1839.

ATTACHMENTS.

AN ACT allowing and regulating writs of attachment.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa.* That when any action founded on contract shall have been commenced, or shall be about to be commenced, in the district court in any county in this Territory, either by summons or *capias*, a writ of attachment shall be issued by the clerk of said court upon an affidavit being filed in his office containing the following requisites.

Writ of attachment to issue upon affidavit filed containing certain requisites.

1st. It must state that something is due from the defendant to the plaintiff, and as nearly as practicable the exact amount.

2nd. It must state that (as deponent verily believes) the said debtor is a non-resident of the Territory, or that he is in some manner about to dispose of or remove his property with intent to defraud his creditors, or that he has absconded so that the ordinary process cannot be served upon him.

SEC. 2. The said writ may also be issued in actions *ex delicto* in cases where bail has been ordered and a *capias* issued thereon, provided an affidavit shall be filed in the manner above directed stating the truth of one of the three requisites specified under the second head of the preceding section.

Other cases in which the writ may issue.

SEC. 3. In such cases the amount in which the defendant is to be held to bail shall be substituted in every instance for the amount sworn to be due, as required in section first. In other respects the pro-

Amount of bail to be substituted for the sum due.