

to the truth thereof, or unless the defendant, being heir, executor or administrator, of the person alleged to have made the deed, obtain leave from the court, upon shewing just cause, to put in such plea.

SEC. 4. *And be it enacted*, That the courts of law shall have full power and authority to order and allow amendments to be made in all proceedings whatsoever before verdict, so as to bring the merits of the question between the parties fairly to trial; and if amendment is made after the jury is sworn, a juror shall be withdrawn; and in all cases where amendments are made, the adverse party shall have time allowed him, in the discretion of the court, to prepare to support his case upon the state of the proceeding so amended, and such costs shall be allowed the party against whom such amendment may be made as the court shall think just.

Court may order and allow amendments, &c.

This section is re-enacted, almost in *totendum verbis*, by 1809, ch. 153.

SEC. 5. Superseded by 1790, ch. 42, which was superseded by 1806, ch. 90, sec. 1.

SEC. 6. *And be it enacted*, That in all cases of appeals, or writs of error, hereafter brought or prosecuted by any defendant or person grieved by any judgment, and the judgment of the inferior court, upon the merits of the question between the parties, and not upon the form of proceeding, be reversed, the court reversing such judgment shall award costs incurred by the defendant, or person grieved by such judgment, both in the superior and inferior courts, to be paid by the plaintiff or person against whom such writ of error or appeal be prosecuted, and judgment shall be entered in the court determining such appeal or writ of error for the costs aforesaid, and execution may issue for the same from such court.

On appeals, &c. court may award costs, &c.

SEC. 7, 8, 9, 10, are merged in 1798, ch. 101, and its supplements.

SEC. 11. *And be it enacted*, That all causes referred by consent of parties and rule of court, shall be continued until an award is returned, and if a death of either of the parties happen before an award returned and judgment thereon, such cause shall not abate by the death, but upon reasonable notice to the person or persons succeeding to the interest of or respecting the deceased in the thing or matter in contest, and not being a minor, the arbitrators shall proceed to a determination, and return their award, upon which judgment may be entered by the court, and such judgment shall be good and sufficient in law, notwithstanding the death of either of the parties; and in case any arbitrator or arbitrators appointed by the parties upon any reference aforesaid should die, or refuse to act, the court from which such cause was referred shall, upon motion of either of the parties, appoint an arbitrator or arbitrators in the stead of

Causes referred, &c. shall be continued, &c.