

one tenth part thereof, annually, to the purpose aforesaid; and if any guardian shall refuse or neglect to settle an account as by this act is directed, he shall forfeit and pay a sum not exceeding fifty pounds current money for every such refusal or neglect, to be recovered by indictment in the county court; (a) and also such guardian and his securities, upon suit brought by the minor when he arrives at age, shall be liable to such minor the full profits and value of the increase of such estate; and all accounts so to be settled by guardians shall be fairly entered by the register of the orphans court where such accounts may be settled in a well bound book kept for this purpose only, and the balances of such accounts shall be regularly carried forward from year to year until the respective minors arrive at age; and the register for his trouble shall be allowed the same fees as for entering other accounts.

(a) The act of 1798, ch. 101, declares, that on a guardian's failing to account as therein directed his bond shall be liable to be put in suit, and he shall be liable to attachment and fine, but he shall not be liable to any fine in a court of law.

X. AND BE IT ENACTED, That such part of this act as relates to guardians shall be given in charge to the grand jury every court by the justices of the several and respective county courts; and it is hereby declared to be the duty of the justices of the orphans court, and of the register of the respective counties, to inform against all guardians refusing or neglecting to pursue the directions of this act, and this duty shall be performed by the said justices and register of the orphans court, under the penalty of ten pounds current money upon each person neglecting to perform the same, to be recovered as aforesaid, upon every neglect.

To be given in charge, &c.

This section appears to be superseded by the act of 1798, ch. 101, as stated in the note under the ninth section.

XI. 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 those dying or refusing to act, and any arbitrator or arbitrators so appointed shall have the same power and authority to decide the matter in question, as if appointed by the parties; and if an award be not returned within eight months after the cause may be referred as aforesaid, the court from which such cause shall be referred, may, by order, compel the arbitrators to return their award, or give their reasons for not returning an award, or the court may, in their discretion, upon motion of either of the parties, reinstate the cause, and take such order therein as they may think proper, to have the same fairly tried in court, in the same manner as if such cause never had been referred; and in all cases where awards may be made upon references aforesaid, the party in whose favour the award is given shall cause a copy thereof to be delivered to the adverse party or his attorney, at least three days before judgment is moved for upon such award, and the clerk of the court shall not enter judgment upon any award returned without a motion to and direction from the court, and the court shall always have satisfactory proof by the party's own oath, or affirmation, as the case may be, or otherwise, that a copy of the award hath been delivered to the adverse party or his attorney as aforesaid before judgment shall be directed to be entered on any award.

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

XII. AND BE IT ENACTED, That in all actions brought, or hereafter to be brought, in any court of law of this state, grounded upon an account, or in which it may be necessary to examine and determine on accounts between the parties, it shall and may be lawful for the court where such action may be or remain for trial to order the accounts and dealings between the parties to be audited and stated by an auditor or auditors to be appointed by such court, and there shall be such proceedings thereon as in cases of actions of accounts.

Court may order accounts to be audited, &c.

XIII. AND BE IT ENACTED, That in all cases of actions brought for the penalty of any bond, bill, covenant or contract, with penalty, the jury may, under the direction of the court, upon the plea of payment, or performance of the condition or terms of the contract, ascertain, and by their verdict find, what sum of money or tobacco is really and justly due to the plaintiff, and upon such finding, judgment shall be entered by the court for the penalty, to be released upon payment of the sum of money or tobacco so found to be due, and interest on the same until paid, and costs of suit; and the sum really due as aforesaid, or in any other manner ascertained, upon bonds and other instruments

Jury may find the sum due, &c.