

stances, the Judge would hold it to be sufficient proof of the service, and equivalent to personal service.

The object of the summons is to give defendants timely notice of the action and claim against them, and keeping this in view the bailiff should do all in his power to accomplish that object; the Judge will determine, on the facts laid before him, if the requirements of the Statute have been sufficiently complied with. In conclusion we would observe that bailiffs must each ascertain by experience what the Judge of his County regards as a *due service* of the summons, and govern himself accordingly; for *due service* is not to be understood in the sense absolutely proved, but that which is sufficient to *satisfy the mind of the Judge* that the process has been served.

SUITORS.

ARBITRATION.—*Instructions for the due and orderly holding of*

(CONTINUED FROM PAGE 23.)

The first meeting may not afford time to enable the arbitrators to get through with all the evidence, in which case they can adjourn until the following day—taking care to inform both parties thereof; or the absence of a material witness may form the ground for postponing a meeting for several days. In the latter case a written appointment had better be made out and given to the parties as above directed; and indeed, if the meeting is intended to be a final one, it would be well to state the fact in the appointment, thus—“*for proceeding on and concluding this reference.*” The most inexpensive and best reference is to a single arbitrator, but if two or more have been appointed, they should be together when the parties and their witnesses are examined.

After all the evidence on both sides is gone through, the arbitrators consider the matter and come to a decision. Of the principles that should guide to a decision we do not intend to say anything; for although it is considered more expedient to respect the rules of evidence and law, yet the arbitrators, being constituted by the parties absolute judges both of law and fact, may make their award according to equity and good conscience, without regard to the strict rules of law, either as respects evidence or the rights of the parties. We may, however, add, that arbitrators must be together rightly to determine a matter, and that their determination should be the result of judgment, and not settled by chance—as drawing lots or the like. Should there be three arbitrators, the majority

usually has the power to decide; if but two, and the Rule of reference provides that in case of disagreement an umpire is to be chosen, the choice of such third party should be the result of the exercise of a sound discretion. The appointment had best be in writing, and endorsed or annexed to the order of reference; it may be as follows, or to the like effect:—

In the ——— Division Court.
County of ———

Between A. B., Plaintiff,
and
C. D., Defendant.

We the within named arbitrators (or “We the arbitrators in the annexed order named”), do hereby nominate and appoint P. P., of ———, the third person or Umpire, to act and decide as within (or “by the said order”), directed.

Dated this ——— day of ———, A.D. 18

H. H. } Arbitrators.
R. R. }

The arbitrators may, immediately after entering on the reference, and before disagreement, appoint their umpire, and this is recommended as the better course, for there is generally less difficulty in concurring in a judicious choice before disagreement than after: if appointed in the first instance, the umpire could be present and hear all the evidence, by which means unnecessary expense would be prevented.

The award or umpirage must be made within the time limited by the order; after that time expires, the arbitrators' authority is at an end. The award must be in accordance with the powers conferred by the order of reference; it must be certain—not ambiguous or doubtful in its language—and final, deciding in terms or substance on all the matters referred. No set form of words is essential to the validity of an award, but the “General Rules, &c., for Division Courts” contain a form which should in all cases be used to avoid objections. The award may be endorsed on the order, (this is the best course) or annexed to it, or be on separate paper. In order to further assist, we give the general form of award (Form 26):—

FORM OF AWARD.—*Where all costs are in the discretion of arbitrators, who award in favor of the plaintiff for a certain sum, and that the defendant shall pay all the costs—(to be endorsed on the order.)*

After hearing and considering the proofs laid before us in the matter of the within reference, and in full determination of the matters to us referred, we do award that the within named A. B. (the plaintiff) is entitled to recover from the within named C. D. (the defendant) the sum of ———, together with the costs of this suit, and also the sum of ———, the costs of this reference, and that the same shall be paid by the said C. D. within (ten) days, and that judgment be entered in the within mentioned cause accordingly.

Dated this ——— day of ———, A.D. 18

H. H. } Arbitrators.
R. R. }

To simplify proof of the execution of the award,