

CHAPTER 319.

[Published April 2, 1860.]

AN ACT relative to proceedings in county courts in certain cases.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever a county court or county judge shall disallow any claim or account presented against the estate of any deceased person, and whenever, in a contest upon the probate of any will, the party contesting shall fail in such contest; and in all cases of mutual accounts, as provided in section 9, of chapter 101, of the Revised Statutes; and in all cases of citation and other matters, when a contest shall arise respecting the rights of the parties to any proceedings before such court or judge, in the settlement of the estates of deceased persons, or in matters relating to the guardianship of minors or other persons; in all such cases, such court or judge may, in his discretion, award all costs of the examination and hearing of such claim, or of the probate of such will, or the settlement of such other matters, against such claimant or contestant, or party, failing in such other matter or proceeding, and shall enter judgment therefor, in favor of the estate or party prevailing in such matter or proceeding, and against such claimant, contestant, or other party, in a judgment record to be kept by such court or judge for that purpose; and such record shall be kept, and such judgment entered, in like manner as required by law in the circuit courts of this State.

Costs of examination and hearing of claims, &c., before probate court when contesting party shall fail in such contest may be taxed against such claimant or contestant.

SEC. 2. In all cases mentioned in the preceding section, such court or judge may, in his discretion, require such claimant, contestant, or other person, to give security for costs. Such security shall be a written undertaking, executed to the adverse party by at least one sufficient surety, to be approved by the judge of the county court, conditioned that such surety will pay all costs that may be awarded by such court or judge, in such proceeding against the party giving such security; and shall be in such sum as such court or judge may require; and in all cases when judgment shall be rendered against the party giving such security, such court or judge may also enter judgment in like manner against the person becoming security for costs in such proceeding.

Security may be demanded for costs. Nature of security.

- Judgments and executions under this act.** **SEC. 3.** All judgments entered pursuant to the provisions of this act, shall have the same force and effect as judgments in the circuit courts of this State; and executions may be issued thereon by the judge of such county court, at any time within two years after the rendition of such judgment: *Provided*, that no such judgment shall be a lien upon the real estate of the judgment debtor, until execution shall have been levied thereon.
- Proviso.** **SEC. 4.** All executions issued pursuant to the provisions of this act, shall be signed by the judge, sealed with the seal of the court from which the same shall issue, and shall be directed to the sheriff of the proper county, setting forth the amount due upon such judgment, and commanding him to satisfy the same, with interest and costs thereon, out of the goods and chattels, lands and tenements of the judgment debtor within his county.
- Nature of executions.** **SEC. 5.** Such execution shall be made returnable, within sixty days from the date thereof, to the judge of the court from which the same shall have issued; and the sheriff shall proceed to levy upon and sell the property of the judgment debtor, in the same manner as required by law upon executions issued out of the circuit courts of this State; and such sheriff shall be entitled to the same fees and commissions allowed by law upon executions issuing from the circuit courts.
- Execution, when returnable.** **SEC. 6.** In all cases of examination or hearing, mentioned in this act, and in all cases arising under sections eight, nine, and thirty-one, of chapter one hundred and one, of the Revised Statutes, the county judge shall be entitled to receive for his services three dollars per day, for each day actually spent in such case, examination, or hearing.
- Duty of sheriff.** **SEC. 7.** This act shall take effect and be in force from and after its passage.
- Fees.** Approved March 31, 1860.
- Compensation of county judge.**