

[No. 43, A.]

[Published April 18, 1885.]

CHAPTER 424.

AN ACT relating to attachments in justices' courts.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Relating to attachments.

SECTION 1. In any action commenced by attachment, in any justice's court, the defendant may, whether he shall answer the complaint in the action or not, by a special answer, verified and filed with the justice, at or before the time at which the warrant of attachment is made returnable, deny the existence at the time of making of the affidavit for the attachment, of any or all of the material facts stated therein, except the alleged liability and the amount thereof. The issue so raised, shall be tried by the justice, and the affirmative thereof shall be upon the plaintiff; and in determining upon such issue the justice shall follow the same rules by which courts of records, in this state, are now governed, in the trial of traverses of attachment. In case an issue shall be made, and a trial had in the action, by the justice, or by a jury, the trial upon such traverse shall be had at the same time with the trial of such action, but in all cases the justice shall make and file in the cause, in writing, his finding upon the traverse, separately from the verdict or finding in the action.

Duties if justice shall determine to issue upon such traverse.

SECTION 2. In case the justice shall determine the issue upon such traverse in favor of the defendant he shall tax the defendant's costs of such trial, and shall forthwith enter in his docket an order that the property attached be returned to the defendant, and shall also assess the damages sustained by the defendant by reason of the taking and detention or sale of the property attached, or by reason of any injury thereto. In case the defendant shall succeed in the action, the justice shall render judgment against the plaintiff for such damages, together with the costs of such traverse and the costs of the action; and in case the defendant shall not defend the action, or if the plaintiff

iff shall recover in the same, then, the justice shall set off against the plaintiff's recovery and the costs in the action, the said damages and the costs of the trial of such traverse, and shall exclude from the costs taxed in favor of the plaintiff, all costs caused by or arising from the attachment; and in case the said damages and costs of traverse shall exceed the plaintiff's recovery and the costs in the action, he shall render judgment against the plaintiff for the overplus. If on the trial of such traverse, the justice shall find for the plaintiff, he shall tax the plaintiff's costs of such trial, and the amount so taxed shall, if he recover in the action, be added to his costs therein; and if the defendant recover judgment in the action, such amount so taxed shall be applied toward payment thereof.

SECTION 3. Either party may appeal from the finding of the justice upon any traverse of attachment, to the same court, to which an appeal might be taken from a judgment in the action, in the same manner that he might appeal from such judgment, but such appeal must be taken separately from any appeal from such judgment.

Appeal may be taken.

SECTION 4. The court having jurisdiction to try such appeal, shall try and determine the issue raised by such traverse in the same manner as though the action had been brought, and the traverse served and filed therein, and may increase or diminish any assessment of damages made by the justice.

Court to try and determine the issue.

SECTION 5. No such appeal shall stay or prevent the sale of the attached property, in case the finding of the justice upon the traverse shall be in favor of the plaintiff, nor the delivery thereof to the defendant, in case such finding shall be in his favor, unless the party appealing shall file with the justice, at the time of taking such appeal, a written undertaking on his part, with one or more sufficient sureties, to be approved by the appellate court or by the justice, to the effect (if the defendant shall be appellant), that if the finding appealed from shall be affirmed, or if judgment be rendered upon such appeal against the appellant, he will pay to the plaintiff the amount for which any judgment has been or shall be rendered against him in the action and interests and costs; or at his option, to the effect that he will pay to the

No appeal shall stay or prevent the sale of attached property.

plaintiff the value of the property returned to him, which value shall in such case be ascertained and determined by the court, and interest thereon and the costs of the action, and of the traverse; and if the plaintiff shall be appellant, to the effect that if the finding of the justice upon the traverse be affirmed, or if judgment be rendered on the appeal against the plaintiff, he will pay to the defendant the value of the property attached, to be ascertained and determined by the court, and interest thereon, and all damages and costs assessed and taxed against him by reason of the attachment.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved April 11, 1885.

[No. 498, A.]

[Published April 16, 1885.]

CHAPTER 425.

AN ACT to forbid the contract system in poor houses and asylums.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

Contract system prohibited.

SECTION 1. What is commonly known as the contract system of maintaining paupers, insane and idiots in poorhouses or asylums, is hereby forbidden, and no person shall contract with any town, village, city or county to carry on a poorhouse or asylum and furnish the inmates board at a given rate for each inmate; provided, however, that existing contracts shall not be annulled by this act; and, provided further, that the provisions of this act shall apply only to those counties, cities or towns that own and operate a poor farm.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 11, 1885.