

No. 402, A.]

[Published May 21, 1925.]

## CHAPTER 155.

AN ACT to amend subsection (1) of section 24, chapter 549, laws of 1909, as amended by chapter 167, laws of 1919; subsection (3) of section 27 of chapter 549, laws of 1909, as created by section 13 of chapter 594, laws of 1917, and section 4 of chapter 538, laws of 1921, relating to the civil court of Milwaukee county.

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

SECTION 1. Subsection (1) of section 24, chapter 549, laws of 1909, as amended by chapter 167, laws of 1919; subsection (3) of section 27 of chapter 549, laws of 1909, as created by section 13 of chapter 594, laws of 1917; and section 4 of chapter 538, laws of 1921, are amended to read: (Laws of 1909, chapter 549, section 24) (1) The prevailing party in any action or proceeding in said civil court shall be entitled to costs, in the discretion of the judge before whom such action or proceeding was heard or tried; *provided, however, that if in actions for assault and battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction, the plaintiff shall recover less than fifty dollars damages, he shall recover no more costs than damages.* Such costs shall be taxed by the clerk or deputy clerk upon application of the party entitled thereto, provided that such costs shall be limited to the actual and necessary disbursements and amounts actually and necessarily paid out for premium on bonds, postage, telegraphing, telephoning, express, or for plats and photographs, not exceeding fifteen dollars for the last two items, made by such prevailing party in such action or proceedings, and an attorney's fee as follows: Five per cent of the amount recovered, unless a greater amount shall have been demanded in the pleadings of the adverse party, in which case the attorney's fee shall be five per cent of such greater amount; and if judgment is for the defendant dismissing the action, five per cent of the amount demanded in the complaint; in a replevin action where a lien is established in favor of a third party, five per cent of the amount of said lien; provided that in no case shall said attorney's fee be less than five dollars, nor more than

twenty-five dollars, unless said judge shall fix some other amount for such attorney fee, not exceeding twenty-five dollars; and provided that said judge may disallow any attorney fee to be included in the costs. Provided also, that in replevin, attachment and garnishment proceedings, said percentage shall be computed upon the value of the property or indebtedness involved. When a judgment for damages for less than one hundred dollars is entered upon confession or upon a note or bond and warrant of attorney, no more than five dollars shall be recovered for costs including disbursements. Costs may be allowed upon a motion in the discretion of the court or a judge, not exceeding ten dollars, and may be absolute or directed to abide the event of the action.

(Laws of 1909, chapter 549, section 27) (3) When said notice shall have been published as aforesaid, the plaintiff may proceed in the principal and garnishment actions as if the summons and garnishee summons had been duly served upon the defendant, but unless the summons shall have been so served upon the defendant or he shall have appeared either in said principal or garnishment actions, no execution shall be issued or money paid to the plaintiff thereon *within one year from the rendition of the judgment unless* \* \* \* the plaintiff or some person in his behalf shall execute a bond to the defendant, to be filed in the action, in double the amount of the judgment or the garnishee's indebtedness to the defendant, or the value of the property garnisheed as assessed by the court, with one or more sureties to be approved by the court or judge, conditioned that if the defendant shall within one year from the rendition of such judgment appear and disprove the debt or damages adjudged against him or any part thereof, the plaintiff will refund the amount collected by him or so much thereof as may be found not justly due on a review of the case.

(Laws of 1921, chapter 538) Section 4. The court shall hear and determine all cases in the small claims branch as in other cases in said court, but the judges of the civil court may adopt rules applicable to the small claims branch providing for a simple, informal, and inexpensive procedure for the determination according to the rules of substantive law of the cases pending therein. If defendant shall have been served with the summons as other summonses of said court are required to be served, or if

he shall have appeared in the action, \* \* \* the court may proceed to render judgment and may order in such judgment that the prevailing party recover costs; but such costs shall include only the \* \* \* fees for issuance and service of summons or warrant, such witness, interpreter, and garnishee fees as the court may allow, and no attorney fee unless specially ordered. All judgments in any case pending in said small claims branch shall be entered and docketed and have the same force and effect and be subject to the same remedies for their collection and enforcement as other judgments of said court. Provided that the court may order a stay of execution upon any judgment in the small claims branch and direct its payment in installments to the clerk of said court at such times as the order may direct; but upon default in the payment of any such installments the court may at once terminate such stay.

SECTION 2. This act shall take effect upon passage and publication.

Approved May 19, 1925.

No. 478, A.]

[Published May 21, 1925.

## CHAPTER 156.

AN ACT to amend section 327.25 (4189) of the statutes, relating to entries by deceased persons and in course of business.

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

SECTION 1. Section 327.25 (4189) of the statutes is amended to read: 327.25 (4189) Any entries made in a book, ledger, card, sales slip or loose leaf sheet by a person authorized to make the same, he being dead, may be received as evidence in a case proper for the admission of such books, ledgers, cards, sales slips or loose leaf sheets as evidence. Entries in a book, ledger, card, sales slip, loose leaf sheet or other permanent form, other than those mentioned in sections 327.24 (4186) and 328.24 (4189b), in the usual course of business, contemporaneous with the transactions to which they relate and as part of or connected with such transactions, made by persons authorized to make the same, may be received in evidence when shown to have been so made upon