

No. 98, S.]

[Published May 16, 1903.

**CHAPTER 271.**

AN ACT amendatory of section 2778 of the statutes of 1898, and enacting and adding to the statutes of 1898 a new section to be designated and known as section 2778a, relating to the procedure for the ascertainment of damages growing out of injunctions.

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

**Repealing clause.** SECTION 1. Section 2778 of the statutes of 1898, is hereby amended by striking therefrom after the word "thereto" in the seventh line thereof the words "the damages may be ascertained by reference or otherwise as the court shall direct."

**Damages, how ascertained.** SECTION 2. There is hereby enacted and added to the statutes of 1898 a new section to be designated and known as section 2778a, which shall be and read as follows: Section 2778a. The damages sustained by reason of an injunction may be ascertained by a reference or otherwise as the court shall direct; and in proceedings to ascertain such damages growing out of an injunction the defendant claiming such damages may be required to file and serve upon the opposite party, including the sureties, within such time and in such manner as the court or referee shall direct, a bill of particulars of such damages claimed; whereupon the plaintiff in the case, or the sureties upon such injunctive bond, may within ten days after the service of such bill of particulars offer in writing to permit the court or referee to assess his damages upon such injunction at the sum in such offer specified together with the costs of such proceeding incurred up to the time of such offer. If such offer be not accepted in writing within five days after it is made, the same shall be deemed withdrawn, and cannot be given in evidence or mentioned on the trial; and if the defendant fail to obtain a more favorable assessment of damages he cannot recover cost, but must pay the costs of the opposite party, or parties, from the time of the offer.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved May 14, 1903.