

work or construct any improvement under the provisions of this chapter, it shall have the power to purchase and secure all necessary and proper tools and equipment with which to perform the same.

**Cost and expense of work, how collected.** SECTION 3. The cost and expense of all work done and all materials furnished by any city under this chapter shall be collected in the same manner as if done and furnished by any other person under contract with said city, and the power to levy special assessments to defray such cost and expense shall be the same as is now, or as hereafter may be provided under the charter of any said city: *provided however*;\*—that the amounts assessed hereunder against any lands or interests specially benefited or otherwise liable therefor shall in no case exceed the amounts which would have been assessed against the same had the lowest bid so received as aforesaid been accepted, and that so much of such cost and expense as shall be in excess of such lowest bid shall be borne by said city at large.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved June 14, 1905.

No. 72, A.]

[Published June 16, 1905.

## CHAPTER 365.

AN ACT to amend sections 2949 and 3072, of the statutes of 1898, relating to costs in supreme court.

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

**Costs allowed.** SECTION 1. Section 2949 of the statutes of 1898 is hereby amended so as to read as follows: Section 2949.† *No costs shall be allowed in the supreme court to the prevailing party on any appeal or writ of error in any civil action or pro-*

\*Printed in italics in enrolled act.  
†Entire section rewritten.

*ceeding, excepting the fees of the clerk of the supreme court, twenty-five dollars attorneys' fees, the fees of the clerk below for transmitting and certifying the record, including the sum paid for the minutes of the phonographic reporter when necessarily procured for the purpose of settling the bill of exceptions, and the sum paid for printing, not exceeding seventy-five cents per page for printing cases and briefs, in all not exceeding one hundred and fifty pages. When the judgment of the court below shall be affirmed in part or reversed in part, or affirmed as to some of the parties and reversed as to others, or modified, the costs shall be in the discretion of the court. In all other actions, writs and proceedings therein, excepting criminal actions, costs may be allowed in the discretion of the court not exceeding the amount aforesaid.*

**Remittitur of new trial ordered; when trial to be had; duty of losing party.** SECTION 2. Section 3072 of the statutes of 1898 is hereby amended so as to read as follows: Section 3072. In every case in error or on appeal in which the supreme court shall order a new trial or further proceedings in the court below, the record shall be transmitted to such court and proceeding had thereon within one year from the date of such order in the supreme court, or in default thereof the action shall be dismissed, unless, upon good cause shown, the court shall otherwise order. It shall be the duty of the *losing party* in any action or proceeding when a judgment or order in his favor *in the court below* is reversed by the supreme court on *the appeal of the opposing party* to pay the *clerk's fees* on such reversal, procure the record in said cause to be remitted to the trial court and bring the cause to trial within one year after such reversal, unless the same be continued for cause, and if he fail so to do, *his action* shall be dismissed.

**Conflicting laws repealed.** SECTION 3. All acts and parts of acts contrary to the provisions of this act are hereby repealed.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved June 14, 1905.