

the plaintiff's claim as established at the trial, judgment shall be entered that the plaintiff take nothing by his action. If such counter claim be less than such claim of the plaintiff's, the plaintiff shall have judgment for the balance, and if in such action a balance is found to be due from the plaintiff to the defendant, judgment shall be entered in favor of the defendant for the amount thereof.

Set-offs.

SEC. 2. Set-off shall be hereafter regarded by the courts of this state as a species of counter claim, and the same shall be regulated and governed in all actions by the rules of practice, and pleading applicable to counter claims.

Take effect.

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

Approved March 17, 1859.

[Published April 4, 1859.]

CHAPTER 155.

AN ACT in relation to appeals and writs of error in certain cases.

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

Dismissal of appeal.

SECTION 1. Whenever an appeal shall be taken to the supreme court from the judgment or order of an inferior court, and security has been given to stay the proceedings on such appeal, or when a writ of error has been issued upon a judgment in a civil action, and proceedings stayed by giving bond or an undertaking as now required by law, the appellant or plaintiff in error shall not be allowed to dismiss the appeal or writ of error upon his own application, except upon the payment of all the costs of appeal or writ of error and proceedings thereon, and upon such other terms as the court may impose and order; and in all cases of such dismissal, the bondsmen and sureties given on taking such appeal, or in issuing such writ, shall be liable for the payment of all such costs and additional sums of money as may be imposed by the court on the dismissal, to be recovered by action on their bond or undertaking, as in other cases.

Costs to be paid.

Take effect.

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

Approved March 17, 1859.