

(d) For the inspection of commercial fertilizers, and the licensing of dealers therein, as provided in sections 1494c, 1494d, and 1494e.

(e) For the inspection, examination and analysis of concentrated commercial feeding stuffs, and the licensing of dealers therein, as provided in sections 1494—11, 1494—11m, 1494—12, and 1494—13 to 1494—18, inclusive.

(f) For the regulation of the public service of stallions, as provided in sections 1494—31 to 1494—39, inclusive.

(g) For inspection and tuberculin testing of cattle for interstate shipment, as provided in subsection 4 of section 1492em.

(h) For furnishing inspection tags for cattle inspected for tuberculosis, as provided in subsection 8 of section 1492em.

SECTION 5. This act shall take effect on July 1, 1917.

Approved July 7, 1917.

No. 474, A.]

[Published July 10, 1917.]

CHAPTER 594

AN ACT to repeal subdivision 4 of section 19 of chapter 549 of the laws of 1909 as amended by section 12 of chapter 425 of the laws of 1911; to create subdivisions 4, 5, and 6 of section 15, subdivision 3 of section 21, and subdivisions 3 and 4 of section 27 of chapter 549 of the laws of 1909; to amend of chapter 549 of the laws of 1909 subdivision 2 of section 5 as amended by section 1 of chapter 425 of the laws of 1911, subdivision 2 of section 15, subdivision 1 of section 19 as amended by section 10 of chapter 425 of the laws of 1911 and section 2 of chapter 320 of the laws of 1913, subdivisions 2 and 2n of section 19 as amended by section 11 of chapter 425 of the laws of 1911, subdivision 1 of section 21 as amended by section 13 of chapter 425 of the laws of 1911, subdivision 1 of section 24 as amended by section 2 of chapter 320 of the laws of 1913, subdivision 1 of section 27 as amended by section 19 of chapter 425 of the laws of 1911 and section 2 of chapter 320 of the laws of 1913, subdivision 2 of section 27, subdivision 1 of section 28 as amended by section 20 of chapter 425 of the laws of 1911 and section 2 of chapter 320 of the laws of 1913 and subdivision 2 of section 13, 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. Subdivision 2 of section 5 of chapter 549 of the laws of 1909 as amended by section 1 of chapter 425 of the

laws of 1911 is amended to read: (Section 5) 2. The judges of said court shall have the powers and jurisdiction heretofore possessed by justices of the peace in the county of Milwaukee in bastardy proceedings, and the said civil court shall have jurisdiction and cognizance in bastardy cases concurrent with and equal to that possessed by the circuit court of said county; and all examinations, recognizances, and commitments by said judges in bastardy cases shall be certified and returned either to said circuit court or to said civil court. *All bastardy cases tried in the civil court shall be tried by a jury of twelve men drawn in accordance with the provisions of this act, unless a jury trial is waived by the defendant.*

SECTION 2. Subdivision 2 of section 15 of chapter 549 of the laws of 1909 is amended to read: (Section 15) 2. Any summons issued to an attorney in such manner, excepting a *garnishee summons and summons issued in * * * actions provided for by chapter 145 of the statutes, relating to forcible entry and unlawful detainer*, may be served and proof of such service may be made in the same manner as the service of a summons and proof thereof in actions in the circuit court of this state, *and when not served by the sheriff, disbursements actually made or incurred for such service shall be taxable as costs in the action, not exceeding, however, the amount allowed to the sheriff for similar service.* The summons of said civil court shall be signed by the clerk or a judge thereof and shall be in substantially the following form:

STATE OF WISCONSIN

Civil Court of Milwaukee County

Plaintiff.

vs.

Defendant.

The state of Wisconsin, to the said defendant (s) (and each of them):

You are hereby summoned to appear on the-----day of -----, 19---- at nine o'clock in the forenoon, before the civil court of Milwaukee county, to answer to the complaint of the plaintiff (s) above named; and in case of your failure so to do, judgment will be rendered against you according to the demand of such complaint (of which a copy is herewith served upon you).

(Court Seal)

SECTION 3. Three new subdivisions are added to section 15 of chapter 549 of the laws of 1909 to read: (Section 15) 1. Whenever in an action of attachment, garnishment and the action upon which the garnishment action is based, replevin, unlawful detainer, or forcible entry and detainer commenced in said civil court, it shall be necessary to notify any defendant by publication of the notice provided for by statute in each of such cases, or whenever in an action against two or more defendants wherein the summons or warrant was served on one or more of such defendants within the time required by law, it shall appear that any defendant, not served in the first instance, has been found within the jurisdiction of the court, and that service can be had upon him, the court may make an order, at any time before final judgment, adjourning the action to a day certain and directing the defendant or defendants not served to appear on said adjourned day to answer to the demand of the plaintiff. The plaintiff may cause said order to be served on such defendant or defendants at least six days before said adjourned day by delivering to each personally a copy of said order, and the action shall thereafter proceed as if the summons or warrant had been served upon him or them in the first instance.

5. At any time after the commencement of an action in said civil court, and before final judgment, if the plaintiff or some person in his behalf shall make and file with the clerk the affidavit of attachment prescribed in section 3702 of the statutes, the clerk shall issue a warrant of attachment substantially in the form prescribed by section 3704 of the statutes, returnable within the same time and to be served and executed in like manner. The issuance of said warrant shall not be deemed the commencement of a new action, but shall be returnable in the action already commenced, and thereafter the same proceedings shall be had as if the action had been originally commenced by such warrant of attachment. Alias warrants of attachment may be issued at any time before judgment, which warrants shall be endorsed "alias warrants" and executed and returned in the same manner as the original. Provided, that no warrants of attachment shall be issued in cases prohibited by section 3701 of the statutes.

6. Persons may be arrested in civil actions in said civil court pursuant to the provisions of chapter 155 or of chapter 122 of the statutes regardless of the amount involved, but such provisions shall not be construed to authorize arrests except by the sheriff of Milwaukee county, nor to apply to proceedings for

contempt. Said civil court and the judges thereof shall have the power to punish for contempt prescribed in chapter 150 of the statutes and all proceedings for contempt shall be governed by the provisions of said chapter.

SECTION 4. Subdivision 1 of section 19 of chapter 549 of the laws of 1909 as amended by section 10 of chapter 425 of the laws of 1911 and section 2 of chapter 320 of the laws of 1913 is amended to read: (Section 19) 1. Jurors and trial juries for said civil court shall be drawn in the manner provided by sections 2533a to * * * 2536, inclusive, and 2848m of the statutes, except as hereinbefore provided, and sections 3639 to 3654, inclusive, of the statutes, with respect to such matter shall not be applicable to said civil court. Provided, that * * * *jurors shall not be drawn for a stated term of court but shall be drawn from the list furnished by the jury commissioners for a period of time, not exceeding two months, and shall consist of the number prescribed by rule of said civil court or an order of the chief judge thereof, who shall have general supervision of the jury calendar and the jury and all jurors in service at any one time shall constitute a single panel from which juries shall be drawn for the trial of cases pending in said court; that the several branches of said civil court shall each draw their * * * juries from * * * said panel; * * * that the duties of the clerk of the circuit court, as provided in sections 2533a to * * * 2536 and 2848m, shall be performed with respect to said civil court by the clerk of said civil court; * * * that the names of said jurors * * * may be drawn by the clerk of said court in the absence of * * * said jury commissioners and without notice to them, and that jurors shall be summoned at least four days before their term of service begins. * * **

SECTION 5. Subdivision 2 of section 19 of chapter 549 of the laws of 1909 as amended by section 11 of chapter 425 of the laws of 1911 is amended to read: (Section 19) 2. Either party to any civil action in said civil court on first paying to the clerk the sum of six dollars may demand that the action be tried by a jury of six men; and either party may also, on first paying to the clerk the sum of twelve dollars, demand that action be tried by a jury of twelve men, *and the action shall thereafter be tried by a jury drawn in accordance with the provisions of this act.* Provided that such demand shall be made at the time of joining issue or prior thereto, and a neglect to make such demand shall be a waiver of the right to trial by jury.

SECTION 6. Subdivision 2n of section 19 of chapter 549 of

the laws of 1909 as amended by section 11 of chapter 425 of the laws of 1911 is amended to read: (Section 19) 2n. Defendants who must sever in their defenses, each having a distinct issue to maintain, are each to be considered a "party" entitled to peremptory challenges, in which case there shall be drawn and called a sufficient number of jurors to constitute a jury of six or twelve, as the case may be, after each party entitled thereto has exercised the peremptory challenges herein provided for. Except as herein otherwise provided, a jury in any action in said civil court shall be impanelled in the same manner and pursuant to the same rules as in the circuit court. * * *

SECTION 7. Subdivision 4 of section 19 of chapter 549 of the laws of 1909 as amended by section 12 of chapter 425 of the laws of 1911 is repealed.

SECTION 8. Subdivision 1 of section 21 of chapter 549 of the laws of 1909 as amended by section 13 of chapter 425 of the laws of 1911 is amended to read: (Section 21) 1. The said civil court shall have power to open any default judgment rendered by it within one year from the docketing of such judgment, except when an appeal has been taken. Said court, or the judges thereof, shall have the same power as the circuit court, or the judges thereof, to entertain motions, make orders, stay proceedings, and to grant new trials and other relief. If notice of a motion or any other proceeding is necessary it shall be served on the party, or his attorney, at least five days before the time appointed for the hearing, unless the court or a judge thereof, upon an affidavit showing grounds therefor, makes an order to show cause why the order or relief prayed for should not be granted and in the order prescribes a shorter time for such service. * * *

SECTION 9. A new subdivision is added to section 21 of chapter 549 of the laws of 1909 to read: (Section 21) 3. After the decision of a demurrer the court may, in its discretion, if it appear that the demurrer was interposed in good faith, allow the party to plead over or to withdraw the demurrer on such terms as may be just. If a demurrer to a complaint be sustained upon the ground that several causes of action have been improperly united, the court may, in its discretion and upon such terms as may be just, order the action to be divided into as many actions as may be necessary to the proper determination of the causes of action therein mentioned.

SECTION 10. Subdivision 1 of section 24 of chapter 549 of the laws of 1909 as amended by section 2 of chapter 320 of the laws of 1913 is amended to read: (Section 24) 1. The prevail-

ing 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. 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 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; 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.*

SECTION 11. Subdivision 1 of section 27 of chapter 549 of the laws of 1909 as amended by section 19 of chapter 425 of the laws of 1911 and section 2 of chapter 320 of the laws of 1913 is amended to read: (Section 27) 1. Whenever any action shall have been commenced by summons upon contract, express or implied, or by warrant of attachment in said civil court, or shall be pending therein, or at any time after the issuing of an execution upon a judgment entered therein and before the same shall be returnable, if the plaintiff or judgment creditor or someone in his behalf shall make and deliver to the clerk or any judge of said court an affidavit setting forth the amount demanded in the complaint or due upon the judgment and stating that the affiant has good reason to believe that some person (naming him) is indebted to the defendant or judgment debtor or has personal property in his possession or under his control belonging to the defendant or judgment debtor, or when there

is more than one defendant or judgment debtor, to any * * * or * * * *all of them jointly or severally*, not by law exempt from sale on execution, said clerk or judge shall issue a summons to such person to appear before said court at the time and place expressed in such summons, not less than six nor more than fifteen days from the date thereof * * * to answer touching his liability as garnishee; provided, however, that if the defendant or judgment debtor or someone in his behalf shall pay to the clerk the amount due to the plaintiff or judgment creditor as disclosed by his affidavit, together with the costs of the principal and garnishment actions * * * up to the time of such payment, said garnishment action shall be at once dismissed and the money applied in payment of the judgment creditor's or plaintiff's claim. Such affidavit may be amended with the same effect as is provided in section 3702 of the statutes. *Any personal property, moneys, credits, and effects held by a conveyance or title void as to the creditors of the defendant shall be embraced in the liability of the garnishee and held to be within the meaning of such affidavit.*

SECTION 12. Subdivision 2 of section 27 of chapter 549 of the laws of 1909 is amended to read: (Section 27) 2. Such summons shall be issued under the seal of and * * * made returnable before said court, shall be signed by the clerk or a judge thereof, shall be otherwise substantially in the form provided by section 3717 of the statutes and shall be served by the * * * sheriff of said Milwaukee county *on the garnishee personally at least six days before the return day thereof. A copy of such summons shall be served on the defendant within the time service thereof is required to be made on the garnishee. If the defendant cannot be found or is not a resident of the state then service may be made upon him by publication as provided in sections 3712 and 3714 of the statutes, with like effect, unless he shall have a known agent or attorney residing within the jurisdiction of the court or some member of his family of suitable age and discretion shall reside within the same, when service may be made on such agent or attorney or some such member of the defendant's family. The notice to the defendant may be substantially in the form prescribed in section 3718 of the statutes.* * * *

SECTION 13. Two new subdivisions are added to section 27 of chapter 549 of the laws of 1909 to read: (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 until 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.

4. All proceedings in garnishment in said civil court, except as otherwise provided in said chapter 549 of the laws of 1909, as amended, shall be governed by the provisions of chapter 158 of the statutes, relating to garnishment proceedings in courts of justices of the peace.

SECTION 14. Subdivision 1 of section 28 of chapter 549 of the laws of 1909 as amended by section 29 of chapter 425 of the laws of 1911 and section 2 of chapter 320 of the laws of 1913 is amended to read: (Section 28) 1. The orders, judgments, and decrees of said civil court in all bastardy cases, may be examined and reviewed by the supreme court in the same manner that the orders, judgments, and decrees of the circuit court may be examined and reviewed. Except in bastardy cases, and except as herein otherwise provided, an appeal may be taken to the circuit court of Milwaukee county by any party to an action or proceeding in said civil court from any final judgment of said civil court, or from any order of said civil court from which an appeal to the supreme court might be taken if such order were made by a circuit court, by filing with the clerk of said civil court within the time hereinafter prescribed a notice in writing signed by the appellant or his attorney, designating the party by whom, the cause in which, and the judgment or order from which the appeal is taken. The appellant shall also file with said notice an affidavit signed by him or his attorney that the appeal is made in good faith and not for the purpose of delay. Such appeals shall be taken within twenty days after the entry of the judgment or order appealed from, and the returns and amended returns upon such appeals shall be made by the clerk of said civil court in the manner provided in chapter 160 of the statutes, relating to appeals from justices' courts; provided, that upon an appeal from any order of said civil court said clerk shall include in the return only so much of the record

and testimony in such action as shall be necessary to determine the questions raised by such appeal. *And provided, however, that the transcript of testimony included in the return shall have attached thereto a certificate of the deputy clerk or stenographer reporting the same, that it is a correct transcript.* Except as herein provided, such appeals shall be governed by the provisions of sections 3368, 3369, 3715c, 3715d, 3726, 3756, 3757, 3759 to 3762, both inclusive, 3770, 3771, and 3772 of the statutes, so far as applicable.

SECTION 15. Subdivision 2 of section 13 of chapter 549 of the laws of 1909 is amended to read: (Section 13) 2. It shall be the duty of each of said judges, before receiving any installment of such salary, to file with the county clerk of said Milwaukee county a detailed statement showing the number of cases assigned to him, the number of cases finally disposed of by him and whether the same were tried by a jury or before the court or otherwise disposed of, the number of such cases remaining undisposed of during the preceding calendar month, * * * the number of days during which such judge has been in attendance upon some branch of said court during such period. *and also including an affidavit to the effect that he has no cases submitted to him under consideration or advisement and remaining undecided by him for a longer period than forty days, exclusive of the time that he shall have been actually disabled by sickness.*

SECTION 16. This act shall take effect upon passage and publication.

Approved July 7, 1917.

No. 538, A.]

[Published July 10, 1917

CHAPTER 595

AN ACT to amend sections 1494c, 1494d, and to create a new subsection of section 1494c and a new subsection of 1494d, relating to the inspection of commercial fertilizers; to create section 1494x—1m, and subsection 4 of 1494x—2; to amend sections 1494x—3, 1494x—4 and 1494x—8, relating to the inspection of agricultural seeds; to amend sections 1494—12, 1494—15, 1494—16, and 1494—17, relating to the inspection of concentrated commercial feeding stuffs; to amend paragraph (d) and to create paragraph (i) to subsection (4) of section 20.60, making an appropriation.

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

SECTION 1. Sections 1494c, 1494d, 1494x—1, 1494x—3, 1494x—4, 1494x—8, 1494—12, 1494—15 and 1494—16 of the statutes