

No. 1041, A.]

[Published May 29, 1913.]

**CHAPTER 320.**

**AN ACT** to create subdivision 3 of section 5 of chapter 549, laws of 1909, as amended by section 1 of chapter 425, laws of 1911; to amend section 10 of chapter 549, laws of 1909, subdivisions 2 and 7 of section 11 of chapter 549, laws of 1909, subdivision 1 of section 15 of chapter 549, laws of 1909, as amended by section 7 of chapter 425, laws of 1911, section 18 of chapter 549, laws of 1909, subdivision 1 of section 19 of chapter 549, laws of 1909, as amended by section 10 of chapter 425, laws of 1911, subdivision 1 of section 23 of chapter 549, laws of 1909, as amended by section 14 of chapter 425, laws of 1911, subdivision 1 of section 24 of chapter 549, laws of 1909, section 25 of chapter 549, laws of 1909, as amended by section 17 of chapter 425, laws of 1911, subdivision 1 of section 27 of chapter 549, laws of 1909, as amended by section 19 of chapter 425, laws of 1911, subdivision 1 of section 28 of chapter 549, laws of 1909, as amended by section 20 of chapter 425, laws of 1911, and subdivision 3 of section 28 of chapter 549, laws of 1909, 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.** There is added to section 5 of chapter 549, laws of 1909, as amended by section 1 of chapter 425, laws of 1911, a new subdivision to read: (Section 5, chapter 549, laws of 1909, as amended by section 1, chapter 425, laws of 1911) 3. The clerk and deputy clerks of said civil court, as well as the judges thereof, shall have power to take the complaint of any female and issue warrants thereon as provided in section 1530 of the statutes, to issue subpoenas and perform any other clerical duties connected with bastardy proceedings, whether the same be pending before a judge or the court; and the clerk may, in the absence of a judge, accept and approve recognizances under section 1531 of the statutes and fix the amount thereof. Fees of witnesses for the state in such proceedings, whether pending before a judge or the court, shall be paid pursuant to the provisions of section 4060 of the statutes.

**SECTION 2.** Section 10 of chapter 549, laws of 1909, subdivisions 2 and 7 of section 11 of chapter 549, laws of 1909, subdivision 1 of section 15 of chapter 549, laws of 1909, as amended by section 7 of chapter 425, laws of 1911, section 18 of chapter 549, laws of 1909, subdivision 1 of section 19 of chapter 549, laws of 1909, as amended by section 10 of chapter 425, laws of 1911, subdivision 1 of section 23 of chapter 549, laws of 1909, as

amended by section 14 of chapter 425, laws of 1911, subdivision 1 of section 24 of chapter 549, laws of 1909, section 25 of chapter 549, laws of 1909, as amended by section 17 of chapter 425, laws of 1911, subdivision 1 of section 27 of chapter 549, laws of 1909, as amended by section 19 of chapter 425, laws of 1911, subdivision 1 of section 28 of chapter 549, laws of 1909, as amended by section 20 of chapter 425, laws of 1911, and subdivision 3 of section 28 of chapter 549, laws of 1909, are amended to read: (Chapter 549, laws of 1909) Section 10. Whenever a vacancy shall occur in the office of a judge of \* \* \* the civil court, \* \* \* the governor of the state shall appoint some person with qualifications as provided in said chapter 549, and the person so appointed shall hold such office until his successor, with qualifications as provided in said chapter 549, is duly elected and qualified as hereinafter provided. Such successor shall be elected at an election to be held on the first Tuesday of April next after the vacancy happen, in case such vacancy happen forty days or more before said date; but if the vacancy happen within forty days before said first Tuesday, then the election shall be held on the first Tuesday of April of the next ensuing year.

(Section 11, chapter 549, laws of 1909) 2. It shall be the duty of said clerk, and deputy clerks, to keep in the docket of said court a complete and accurate record of all the processes issued out of and returned to said court, and of all proceedings in any action or proceeding brought in said court, substantially as required by section 3574 of the statutes \* \* \*, except as otherwise herein provided, and except as may be otherwise provided by the rules of said civil court adopted in pursuance of subdivision 7 of section 9 of said chapter 549. Said docket shall be evidence in the courts of this state the same as the dockets and record books of other courts of record. The said clerk and deputy clerks may make and certify in the form prescribed by law for clerks of other courts of record \* \* \* of this state copies of the entries in the said docket and of all papers filed in said court, and said clerk and deputy clerks shall have power to administer oaths.

7. The said assistants \* \* \* who may hereafter be prescribed shall be skilled in the use of the typewriter and shall perform such duties as may be required of them by said clerk or any of the judges of said court. Said clerk may, by an instrument under his hand and seal, to be filed in his office, invest any of said assistants with the powers and duties hereinbefore prescribed for deputy clerks, and the assistants designated in said instrument shall thereupon take the oath and furnish the bond provided for in subdivision 1 of said section 11, which oath and

*bond shall be filed in the office of the county clerk. The sureties upon such bond shall be subject to the approval of said clerk. The assistants so empowered, after having taken said oath and furnished said bond, shall have all the powers and be charged with all the duties of deputy clerks and may perform the duties of the chief clerk during his absence or disability.*

(Section 15 of chapter 549, laws of 1909, as amended by section 7, chapter 425, laws of 1911) 1. The summons, warrant or other process of said civil court shall be made returnable before said court by its proper title, and shall be, except as otherwise herein provided, substantially in the form and returnable within the time prescribed for the process of courts of justices of the peace, and shall be signed by a judge or by the clerk of said court; provided that a garnishee summons, except in aid of execution, may be issued either at the time of the issuing of the summons or warrant of attachment or at any time thereafter before final judgment \* \* \* *has been entered.* The summons of said court may be signed, sealed, and delivered by the clerk to attorneys authorized to practice law in Wisconsin, and may be issued by them in the manner provided by and subject to the restrictions of chapter 20 of the laws of Wisconsin \* \* \* of 1903, as amended, except as to time of filing.

(Chapter 549, laws of 1909) Section 18. The said civil court may, in its discretion, grant one or more adjournments of the trial of an action, or the hearing of a motion or other proceeding, for such time *certain or to be subsequently determined by the court*, and upon such terms as it may deem just, unless the defendant has been arrested, in which case no adjournment shall be made without the consent of the defendant unless he shall first be discharged from custody. \* \* \*

(Section 19, chapter 549, laws of 1909, as amended by section 10, chapter 425, laws of 1911) 1. Jurors and trial juries for said civil court shall be drawn in the manner provided by sections 2533a to 2544, inclusive, 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 the chief judge of said civil court may, by an order made and filed with the clerk of said court, require that the names of more than thirty-six persons be so drawn to serve as petit jurors therein; that the several branches of said civil court shall each draw their petit jurors from one panel of jurors drawn and summoned for said court; that the duties of the clerk of the circuit court, as provided in sections 2533a to 2540, shall be performed with respect to said civil court by the clerk of said civil court; and that the names of said jurors for

any term of said civil court may be drawn by the clerk of said court in the absence of the said jury commissioners. *Provided, further, that said chief judge may, by an order made and filed with the clerk of said court, require the clerk to draw a special panel of jurors to consist of the number and be summoned for the day designated in said order, and said jurors so drawn and summoned shall be available for the trial of any causes ready for trial before their discharge.*

(Section 23, chapter 549, laws of 1909, as amended by section 14, chapter 425, laws of 1911) 1. There shall be paid to the clerk or deputy clerks of said civil court the following sums only as court fees in a civil action: Upon the issuing of a summons or warrant, fifty cents; \* \* \* if judgment is taken by default or issue is joined, fifty cents where the judgment or the amount demanded in the complaint is one hundred dollars or less, and one dollar where the amount demanded is more than one hundred dollars; for the trial of an action if issue is joined, and the amount is twenty-five dollars or less, one dollar; where the amount claimed is more than twenty-five dollars but does not exceed two hundred dollars, two dollars and fifty cents; and five dollars where the amount claimed or involved is more than two hundred dollars, the foregoing to be paid by the plaintiff in such action; for each transcript, execution, or certificate issued by the clerk or deputy clerk, twenty-five cents; for making a return upon an appeal from a judgment or order, two dollars, and in addition thereto shall be paid by the appellant before the return is filed with the clerk of the circuit court five cents for each folio of one hundred words in such return. *Provided, that if the fees on appeal, including an amount sufficient to pay for fifty per cent of the folios contained in the return, as estimated by the clerk upon request of the appellant, be not paid within twenty days from the date of the entry of judgment, the appeal shall be deemed dismissed.*

(Section 24, chapter 549, laws of 1909) 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. 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, \* \* \* 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.*

(Chapter 549, laws of 1909, as amended by section 17, chapter 425, laws of 1911) Section 25. 1. All judgments, orders, and decrees made and entered in said civil court in all actions and proceedings shall have the same force, effect, and lien, and shall be docketed and carried into effect and enforced as judgments, orders and decrees made and entered in the circuit court; and all the remedies given and proceedings provided for the collection and enforcement of the judgments, orders and decrees of the circuit court shall apply to and be exercised by said civil court; *provided, that in garnishment actions and actions governed by the provisions of subdivision 1 of section 11 of chapter 549 of the laws of 1909 as amended, it shall not be necessary to make up or file a judgment roll; and provided further, however, that no judgment entered in an action brought under the provisions of chapter 145 of the statutes, except for damages under section 3367 thereof, shall be entered upon the judgment docket of said civil court, or become a lien upon real estate, but said judgment shall be enforced pursuant to the provisions of section 3366 of said chapter 145, and any execution and writ of restitution issued thereunder shall be returnable in the same time as other executions from said civil court. Circuit court commissioners may exercise the same jurisdiction and powers in proceedings for the collection and enforcement of the judgments, orders and decrees of the civil court as they now have in proceedings for the collection and enforcement of judgments, orders and decrees of the circuit court. Whenever proceedings supplemental to execution shall be pursued before a judge of the civil court the same fees shall be collected as are payable to circuit court commissioners in similar proceedings.*

2. *Whenever judgment shall be entered and docketed in the circuit court upon an appeal from a judgment of the civil court, the clerk of the circuit court shall transmit to the clerk of the civil court a transcript of his docket, and the clerk of the civil court shall thereupon enter on the docket of the judgment appealed from the disposition of such appeal and the time of dock-*

eting in circuit court, as shown by such transcript. No fee shall be paid for such transcript, or the filing or entry thereof. If the judgment appealed from be reversed, the judgment of the circuit court shall become a lien from the time of docketing in the circuit court, as provided in section 2902 of the statutes. If the judgment appealed from be affirmed, or modified and affirmed, the lien of the judgment created by the docketing thereof in the circuit court shall relate back to the time of docketing the judgment appealed from in the civil court, and the duration of such lien shall be computed from the time of rendition of said civil court judgment, except that if the collection of said judgment shall be stayed, the duration of such stay shall be excluded from the computation. From the time of entering said transcript on the civil court docket, said civil court judgment shall cease to be a lien.

(Section 27, chapter 549, laws of 1909, as amended by section 19, chapter 425, laws of 1911) 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 some one 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 one or either of them, 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, except as provided in subdivision 1 of section 5 of said chapter 549 as amended by this act, 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 incurred 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.

(Section 28, chapter 549, laws of 1909, as amended by section 20, chapter 425, laws of 1911) 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. *Except as herein provided, such appeals shall be governed by the provisions of sections 3368, 3369, 3715c, 3715d, 3756, 3757, 3759 to 3762, both inclusive, 3770, 3771, and 3772 of the statutes, so far as applicable.*

(Section 28, chapter 549, laws of 1909) 3. Every judgment of said civil court shall be affirmed or modified and affirmed as so modified, by the circuit court, upon appeal, unless, by reason of manifest prejudicial error in the trial of the action in which such judgment was rendered, any party thereto has not had a fair trial thereof in the civil court; but in any such case of mistrial, where substantial justice can not otherwise be done and the rights of the parties otherwise observed and protected, the judgment of the civil court therein shall be reversed, and the circuit court shall order the action tried in said circuit court in the same manner as if originally brought there, except that in case any judgment of the civil court in any action wherein the amount involved or demanded in the pleadings of either party does not exceed the sum of two hundred dollars, shall be so re-

versed. \* \* \* *the trial in the circuit court shall be by the court unless a jury was demanded in the civil court.*

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

Approved May 26, 1913.

No. 1059, A.]

[Published May 29, 1913.]

## CHAPTER 321.

AN ACT to amend section 2261 of the statutes, relating to plats. *The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section 2261 of the statutes is amended to read: Section 2261. The following requirements shall be fully complied with to entitle a map made under the provisions of \* \* \* section 2260 of the statutes to be recorded:

\* \* \* (1) On the face of the map shall appear:

\* \* \* (a) The shape and all the exterior boundaries of the lands which it is intended to represent.

\* \* \* (b) The shape and boundaries of each subdivision thereof and the contents of each lot containing an area of more than one acre.

\* \* \* (c) The length and courses of all exterior boundary lines and of the boundary lines of all lots or other subdivisions designated on the map, and the center line of all streets, when such center line is not used as a boundary line, shall be noted in their proper places.

\* \* \* (d) All monuments erected in the field must be represented in their proper places thereon, and the kind of material of which such monument is composed noted at the representation thereof.

\* \* \* (e) When an arc of a circle is used as a boundary or for a center line of a road or street the main chord shall be drawn in red, in its proper place, and on it shall be noted its course and length, the radius of the circle of which such arc is a part, the angle between the main chord and the tangent, the deflection angle and the length of the deflection chord used in staking out such arc.

\* \* \* (f) The name given to the tract of land so divided and mapped, and of the streets thereon.

\* \* \* (2) On the face or back of every such map offered for record shall appear and be written the certificate of the surveyor who surveyed and mapped the land, which certificate shall be sworn to before a notary public or other officer authorized to administer oaths, and shall contain: