

No. 50, S.]

[Published March 22, 1899.

CHAPTER 29.

AN ACT relating to the examination of parties before trial in civil actions and amendatory of section 4096 of the statutes of Wisconsin for the year 1898.

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

SECTION 1. Section 4096 of the Wisconsin statutes of 1898 is hereby amended by striking out the words, "such deposition, when completed, need not be read to or by or be subscribed by the party examined," and by inserting in lieu thereof the following: "Whenever a party shall be examined and his deposition taken under the provisions of this section the party taking such examination and the party examined, or their counsel, may stipulate upon the record before the judge or court commissioner before whom the examination is had that the reading of the deposition to or by the deponent and his signature thereto are waived by consent, and that the deposition may be used with the same force and effect as if read over and signed; and in cases where such stipulation is made the said examination or deposition may be used in the action in which the same is taken and in any other action or proceeding in that or in any other court where it could have been used if read over and signed, with the same force and effect in all respects as if the deponent had read and signed the same. In all cases where the reading and signature shall not be waived, as aforesaid, the said deposition shall be read over to or by the deponent and signed by him before the officer before whom the same was taken, and the attendance of the party examined for the purpose of reading and signing said deposition may be com-

Reading and signing of deposition may be waived by stipulation.

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pelled in the same manner as his attendance for the purpose of submitting to such examination may now be compelled by law:" so that said section when amended shall read as follows: Section 4096. No action to obtain a discovery under oath, in aid of prosecution or defense of another action, shall be allowed; but the examination of the party or, in case a private corporation be a party, the examination of the president, secretary or other principal officer or general managing agent of such corporation, or of the person who was such president, secretary, officer or agent at the time of the occurrence of the facts made the subject of the examination, otherwise than as a witness on a trial, may be taken by deposition at the instance of the adverse party in any action or proceeding, at any time after the commencement thereof and before judgment. Such deposition shall be taken before a judge at chambers or a court commissioner on a previous notice to such party and any other adverse party or their respective attorneys of at least five days; or it may be taken without the state in the manner provided for taking other depositions. The attendance of the party to be examined may be compelled upon subpoena and the payment or tender of his fees as a witness; such examination shall be subject to the same rules as that of any other witness, but he shall not be compelled to disclose anything not relevant to the controversy. If such examination shall be taken before issue joined the notice of taking the same shall be accompanied by an affidavit of the party, his agent or attorney, stating the general nature and object of the action, that discovery is sought to enable the party to plead and the points upon which such discovery is desired, and such examination shall be limited to the discovery of the facts relevant to such points unless the court or the presiding judge thereof, on motion and one day's notice, shall before the examination is begun, by

order further limit the subjects to which it shall extend; but such examination shall not preclude the right to another examination after issue joined upon all the issues in the cause, and the party examining shall, in all cases, be allowed to examine upon oral interrogatories. Such examinations shall not be compelled in any other county than that in which the party to be examined resides; provided, that whenever plaintiff or defendant is a non-resident of this state his deposition may be had under the provisions of this section in the county in which the action is pending, if he can be personally served with notice and subpoena in such county. In any examination under these provisions the judge or commissioner before whom the same is had may compel the party examined to answer all questions relevant to the issues involved and also compel the production by him of books and papers relevant and pertinent to the issues and may enforce such answers and the production of such books and papers by contempt proceedings. Whenever a party shall be examined and his deposition taken under the provisions of this section the party taking such examination and the party examined, or their counsel, may stipulate upon the record before the judge or court commissioner before whom the examination is had, that the reading of the deposition to or by the deponent and his signature thereto are waived by consent, and that the deposition may be used with the same force and effect as if read over and signed; and in cases where such stipulation is made the said examination or deposition may be used in the action in which the same is taken and in any other action or proceeding in that or in any other court where it could have been used if read over and signed, with the same force and effect in all respects as if the deponent had read and signed the same. In all cases where the reading and signature shall not be waived, as aforesaid, the said deposition shall be read over to or by the deponent and signed by him before the officer before whom the same was taken, and

Reading and signing of deposition may be waived by stipulation.

the attendance of the party examined for the purpose of reading and signing said deposition may be compelled in the same manner as his attendance for the purpose of submitting to such examination may now be compelled by law; it shall in all cases be delivered or transmitted by the officer before whom taken to the clerk of the court, magistrate or other person before whom the action or proceeding is pending securely sealed, and shall remain sealed until opened by the court or clerk thereof or such magistrate or other person.

SECTION 2. All acts and parts of acts in conflict with this act are hereby repealed.

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

Approved March 17, 1899.

No. 42, S.]

[Published March 22, 1899.

CHAPTER 30.

AN ACT to repeal chapter 185 of the laws of 1876 and to provide for a register in probate for Waukesha county.

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

SECTION 1. Chapter 185, of the laws of 1876, is hereby repealed.

County judge
may appoint
a register in
probate.

SECTION 2. The county judge of the county of Waukesha may appoint, from time to time, by instrument in writing filed with the county clerk, a competent person to act as clerk of the county court, of said county, and the person so appointed shall be officially designated as "register in probate," for said county. Such regis-