

statutes to read: (20.12) (18) On July 1, 1927, twenty-five hundred dollars for the purpose of repairing a dam on state owned property, situated on the Big Muskego lake, in the town of Muskego, Waukesha county.

SECTION 2. This act shall take effect upon passage and publication.

Approved August 6, 1927.

No. 10, S.]

[Published August 11, 1927.

CHAPTER 523.

AN ACT to revise Chapter 325 WITNESSES AND ORAL TESTIMONY, Chapter 326 DEPOSITIONS, OATHS AND AFFIDAVITS, Chapter 327 DOCUMENTARY EVIDENCE and Chapter 328 PRESUMPTIONS AND JUDICIAL NOTICE of the Wisconsin Statutes of 1925; to amend related sections found in various parts of the statutes; and to repeal specified session laws which created or amended the provisions that are revised.

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

SECTION 1. Chapter 325 of the statutes is entitled WITNESSES AND ORAL TESTIMONY.

SECTION 2. Section 325.01 of the statutes is amended to read:

325.01 SUBPOENAS, WHO MAY ISSUE. The subpoena * * * need not be sealed, and may be signed and issued as follows:

(1) By any judge or clerk of a court * * * or court commissioner or justice of the peace, * * * or police justice within the territory in which such officer or the court of which he is such officer has jurisdiction, to require the attendance of witnesses and their production of lawful instruments of evidence in any action, matter or proceeding pending or to be examined into before any court, magistrate, officer, arbitrator, board, committee or other person authorized to *take* * * * testimony in the state.

(2) By the attorney-general or any district attorney or person acting in his stead, to require the attendance of witnesses, in behalf of the state, in any court *or before any magistrate* and from any part of the state.

(3) By the chairman of any committee * * * of any county board, town board, common council or village board to investigate the affairs of the county, town, city or village, * * * or the official conduct or affairs of any officer thereof.

(4) By any arbitrator, coroner, board, commission, commissioner, examiner, committee, or other person authorized to take testimony, within their jurisdictions, to require the attendance of witnesses, and their production of documentary evidence before them, respectively, in any matter, proceeding or examination authorized by law; and likewise by the secretary of the state civil service commission, of the state tax commission, and of the state board of dental examiners, and by any agent of the department of markets.

SECTION 3. Section 325.02 of the statutes is amended to read: 325.02 FORM OF SUBPOENA. (1) The subpoena * * * may be in the following form:

SUBPOENA

State of Wisconsin, }
 } ss.
..... County. }
* * *

THE STATE OF WISCONSIN, to.....:

You are hereby required to appear before * * *, a justice * * * of the peace in and for said county, at * * * his office in * * * the town of (or before, designating the court, officer or person and place of appearance), on the day of, at o'clock in thenoon of said day, to give evidence in a certain cause then and there to be tried between, plaintiff, and, defendant, on the part of the (or to give evidence in the matter [state sufficient to identify the matter or proceeding in which the evidence is to be given] then and there to be heard, on the part of

Given under my hand this day of, 19....
* * *

.....
(Give official title)

(2) For a subpoena duces tecum, the following or its equivalent may be added to the foregoing form (immediately before the attestation clause): and you are further required to bring with

you the following papers and documents (describing them as accurately as possible).

SECTION 4. Section 325.03 of the statutes is amended to read:

325.03 SERVICE OF SUBPOENA. Any subpoena may be served by any person by exhibiting and reading it to the witness, or by giving him a copy thereof, or by leaving such copy at * * * his abode.

SECTION 5. Section 325.04 of the statutes is amended to read:

325.04 JUSTICE SUBPOENA, SERVED IN ADJOINING COUNTY. A subpoena to require attendance * * * before a justice of the peace may be served in a county adjoining that * * * of the justice, and shall oblige * * * such attendance * * * of any witness, so * * * served, * * * not residing more than thirty miles from the office of such justice.

SECTION 6. Section 325.05 of the statutes is amended to read:

325.05 WITNESS' AND INTERPRETER'S FEES. (1)

The fees of witnesses and interpreters shall be as follows:

* * *

(a) * * * For attending * * * before a justice of the peace, or * * * any arbitrators or any board or committee thereof of any town, city or village, two dollars for each day.

(b) * * * For attending before any other court, officer, board or committee, *two dollars and fifty cents for each day.*
* * *

(c) * * * For traveling, at the rate of eight cents per mile, * * * going and returning from * * * his residence * * * (if within this state); or, if without, from the * * * point where * * * he * * * crosses the state boundary in coming to attend to the place of attendance, and returning by the usually traveled route between such points.
* * *

(2) * * * A witness or interpreter shall be entitled to * * * fees * * * only for the time he shall be in actual and necessary attendance as such; * * * and shall not be entitled to receive pay in more than one action or proceeding for the same attendance or travel on behalf of the same party. No person shall be entitled to * * * fees as a witness or interpreter while attending court as an officer or juror; nor shall any attorney or counsel in any cause be allowed any fee as a witness or interpreter therein.

SECTION 7. Section 325.06 of the statutes is amended to read:

325.06 WITNESS' FEES, PREPAYMENT. (1) *Except when subpoenaed on behalf of the state, no person shall be obliged to attend as a witness in any civil action, matter or proceeding * * * unless * * * his fees are paid or tendered to him * * * for one day's attendance * * * and for travel * * * .*

(2) No witness on behalf of the state in any civil action, matter or proceeding, * * * or in any criminal action or proceeding, * * * on behalf of either party, shall be entitled to * * * any fee in advance, but shall be obliged to attend upon the service of a subpoena as therein lawfully required.

SECTION 8. Section 325.07 of the statutes is amended to read:

325.07 STATE WITNESSES IN CIVIL ACTIONS, HOW PAID. Every witness on behalf of the state in any civil action or proceeding * * * may file with the clerk of the court where the same is pending his affidavit * * * of attendance and travel, and his fees shall, upon the certificate of such clerk, countersigned by the attorney-general, district attorney, or acting * * * *state's attorney*, be paid out of the state treasury, * * * and * * * shall be charged to the legal expense appropriation * * * *to the attorney-general*.

SECTION 9. Section 325.08 of the statutes is amended to read:

325.08 STATE WITNESSES IN CRIMINAL CASES, HOW PAID. The fees of * * * witnesses on the part of the state in every criminal action or proceeding, * * * and of every person who is * * * *committed to jail in default of security for his appearance * * * as * * * a witness, * * * shall be paid by the county in which the action or proceeding is had. * * * The clerk of the * * * court upon proof of his attendance, travel or confinement shall give each such witness or person a certificate of the number of days' attendance or confinement, the number of miles traveled, and the amount of compensation due him, which certificate shall be receipted for by such witness or person, and * * * the county treasurer shall pay the amount thereof * * * on surrender of the certificate.*

SECTION 10. Section 325.09 of the statutes is amended to read:

325.09 COMPENSATION OF NONRESIDENT OR POOR WITNESS. When any * * * *witness* shall attend a court of record * * * in behalf of the state, * * * and it shall appear that * * * *he came from * * * outside this state, or that * * * he is poor, the court may * * **

order * * * he be paid a specific *reasonable* sum * * * for his expense and attendance, in lieu of his fees; * * * and thereupon the clerk shall give a certificate for such sum, with a copy of such order affixed, and the same shall be paid * * * as other court certificates are paid.

SECTION 11. Section 325.10 of the statutes is revised to read:

325.10 WITNESS FOR INDIGENT DEFENDANT. Upon satisfactory proof of the inability of the defendant to procure the attendance of witnesses for his defense, the judge, court commissioner, or justice of the peace, in any criminal action or proceeding to be tried or heard before him, may direct such witnesses to be subpoenaed as he shall, upon the defendant's oath or affidavit, or that of his attorney, deem proper and necessary. And witnesses so subpoenaed shall be paid their fees in the manner that witnesses for the state therein are paid.

SECTION 12. Section 325.11 of the statutes is amended to read:

325.11 DISOBEDIENT WITNESS. (1) DAMAGES RECOVERABLE. If any person * * * obliged to attend as a witness shall fail to do so without any reasonable excuse, he shall be liable to the aggrieved party for all damages occasioned by such failure, to be recovered in action * * * .

(2) ATTENDANCE COMPELLED. * * * Every court, * * * in * * * case * * * of unexcused failure to appear before it, may issue an attachment to bring such witness before * * * it for the contempt, and also to testify. * * *

(3) PUNISHMENT IN COURTS. * * * Inexcusable failure to attend * * * any court of record shall * * * be * * * a contempt of the court, * * * punishable by a fine not exceeding twenty dollars. * * *

(4) SAME. * * * Unexcused failure to attend * * * a * * * court not of record shall * * * be * * * a contempt, and the witness shall be fined all the costs of his apprehension, unless he shall show reasonable cause for his failure; * * * in which case the party procuring him to be apprehended shall pay * * * said costs * * * .

(5) * * * STRIKING OUT PLEADING. * * * If any party * * * to an action or proceeding shall unlawfully refuse or neglect to appear or testify or depose therein (either within or without the state), the court may, also, strike out his pleading, and give judgment * * * against him as upon default or failure of proof.

* * *

SECTION 13. Section 325.12 of the statutes is amended to read:

325.12 COERCING WITNESSES BEFORE OFFICERS AND BOARDS. If any person * * * shall, without reasonable excuse, fail to attend as a witness, or to testify as lawfully required before any * * * arbitrator * * *, coroner, board, * * * commission, commissioner, examiner, committee, or other officer or person authorized to * * * take, testimony, * * * or to produce a book or paper which he was lawfully directed to bring, * * * or to subscribe his deposition when correctly reduced to writing, * * * any judge of a court of record or court commissioner in the county where the person was obliged to attend may, upon sworn proof of the facts, issue an attachment * * * for him, and * * * unless * * * he shall purge the contempt and go and testify or do such other act as required by law, may * * * commit him to * * * close confinement in the county jail * * * until he shall so testify or do such act, or be discharged * * * according to law. The sheriff of the county shall execute * * * the commitment.

SECTION 14. Section 325.13 of the statutes is amended to read:

325.13 PARTY MAY BE WITNESS, CREDIBILITY. (1) *No person shall be disqualified as a witness in any action or proceeding, civil or criminal, by reason of his interest therein; and every person shall, in every such case, be a competent witness, except as otherwise provided in this chapter. But his interest or connection may be shown to effect the credibility of the witness.*

(2) In all criminal actions and proceedings the party charged shall, at his own request, but not otherwise, be a competent witness; but his refusal or omission to testify shall create no presumption against him or any other party thereto.

SECTION 15. Section 325.14 of the statutes is amended to read:

325.14 ADVERSE EXAMINATION AT TRIAL; DEPOSITION AS EVIDENCE; REBUTTAL. (1) * * * Any * * * party of record, * * * or any person for whose immediate benefit any * * * civil action or proceeding is prosecuted or defended, or his or its assignor, officer, agent or employe, or the person who was such officer, agent or employe at the time of the occurrence of the facts made the subject of the examination, * * * may be examined upon the trial of * * * such action or proceeding as if under cross-examination, at the instance of any adverse party. * * *

(2) The * * * testimony * * * so taken on the trial or by deposition, *pursuant to section 326.12*, at the instance of * * * an adverse party, * * * shall not conclude the party taking the same, but he shall be allowed to rebut or impeach the same.

(3) *Except as otherwise provided in section 326.12, any party may offer any deposition in evidence.*

SECTION 16. Section 325.15 of the statutes is amended to read:

325.15 IMMUNITY. No person shall be excused from attending, testifying or producing books, papers, * * * and documents before any court * * * *in a prosecution under section 348.486* on the ground or for the reason that the testimony or evidence * * * required of him may tend to criminate him, or to subject him to a penalty or forfeiture. But no person *who testifies or produces evidence in obedience to the command of the court in such prosecution* shall be liable to any suit or prosecution, civil or criminal, for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence; * * * provided, that no person * * * shall be exempted from prosecution and punishment for perjury committed in so testifying.

SECTION 17. Section 325.16 of the statutes is revised to read:

325.16 TRANSACTIONS WITH DECEASED OR INSANE PERSONS. No party or person in his own behalf or interest, and no person from, through or under whom a party derives his interest or title, shall be examined as a witness in respect to any transaction or communication by him personally with a deceased or insane person in any civil action or proceeding, in which the opposite party derives his title or sustains his liability to the cause of action from, through or under such deceased or insane person, or in any action or proceeding in which such insane person is a party prosecuting or defending by guardian, unless such opposite party shall first, in his own behalf, introduce testimony of himself or some other person concerning such transaction or communication, and then only in respect to such transaction or communication of which testimony is so given or in respect to matters to which such testimony relates. And no stockholder, officer or trustee of a corporation in its behalf or interest, and no stockholder, officer or trustee of a corporation from, through or under whom a party derives his or its interest or title, shall be so examined, except as aforesaid.

SECTION 19. Section 325.22 of the statutes is amended to read:

325.22 COMMUNICATIONS TO ATTORNEYS. An attorney or counselor at law shall not be allowed to disclose a communication made by his client to him, or his advice given thereon in the course of his professional employment. *This prohibition may be waived by the client, and does not include communications which the attorney needs to divulge for his own protection, or the protection of those with whom he deals, or which were made to him for the express purpose of being communicated to another, or being made public.*

SECTION 20. Section 325.23 of the statutes is repealed.

SECTION 22. Section 325.26 of the statutes is amended to read:

325.26 ABORTION, IMMUNITY. No person, *except the defendant*, shall be excused or privileged from testifying fully * * * in any prosecution brought under the provisions of section 340.16 or 351.22, * * * when * * * ordered to testify by a court of record or any judge thereof; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person may so testify or produce evidence, except for perjury committed in giving such testimony.

SECTION 23. Section 325.27 of the statutes is amended to read:

325.27 ADMISSION BY MEMBER OF CORPORATION. In actions or proceedings by or against * * * a corporation, the admission of any member thereof who is not a party to the action or proceeding shall not be received as evidence against such corporation unless such admission was made concerning some transaction in which such member was the authorized agent of * * * the corporation.

SECTION 24. Section 325.28 of the statutes is amended to read:

325.28 STATEMENT OF INJURED, ADMISSIBILITY. In * * * actions for damages caused by personal injury, no statement made or writing signed by the injured * * * person within seventy-two hours of the time the injury happened or accident occurred, shall be * * * received in evidence * * * unless such evidence would be admissible as part of the *res gestae*.

SECTION 25. Section 325.29 of the statutes is amended to read:

325.29 TESTIMONY OF JUDGE OF KIN TO ATTORNEY. No judge of any court of record shall * * * testify

as to any matter of opinion in any action or proceeding * * * in which any person related to such judge in the first degree shall be an attorney of record.

SECTION 26. Section 325.30 of the statutes is amended to read:

325.30 CAPACITY OF INFANTS, ETC. The court * * * *may examine a person* produced as a witness * * * to ascertain his capacity and whether he understands the nature and obligations of oath.

SECTION 27. Section 325.31 of the statutes is amended to read:

325.31 TESTIMONY OF DECEASED OR ABSENT WITNESS. The testimony of * * * *a* deceased witness, or * * * *a* witness * * * absent from the state, taken in any action or proceeding (except in a default action or proceeding where service of process was obtained by publication), shall be admissible in evidence in any retrial, *or in any* other action or proceeding where the party against whom it is offered shall have had an opportunity to cross-examine * * * said * * * witness, and where the issue upon which it is offered is substantially the same *as the one upon which it was taken*.

SECTION 28. Section 325.32 of the statutes is repealed.

SECTION 29. Section 16.05 of the statutes is revised to read:

16.05 TESTIMONIAL POWERS. Each commissioner and the secretary of the commission may take testimony. All persons in the civil service shall attend and testify when requested to do so by the commission.

SECTION 30. Section 73.04 of the statutes is amended to read:

73.04 HEARINGS, WITNESSES. (1) CONTEMPTS. * * * In case any * * * *person* shall *unlawfully* fail to obey any * * * *subpoena* to appear before said commission, or shall *unlawfully* refuse to testify, * * * such failure or refusal shall be reported to the attorney-general, who shall thereupon institute *contempt* proceedings * * * *against such person*.

(2) FEES. Officers who serve * * * subpoenas, and witnesses attending *hearings at the instance of the commission*, shall receive like compensation as officers and witnesses in the circuit court. Such compensation shall be charged to the proper appropriation for the tax commission.

(3) * * * SPECIAL INVESTIGATIONS. The commission may * * * appoint one of its members, or its secretary or engineer, to * * * investigate and make report upon any matter pending before it, and * * * *he* may hold hearings, administer oaths

to witnesses, take testimony, and perform all duties necessary to carry his commission into effect. He shall report * * * *the evidence * * * taken by him to the commission in such manner as it may prescribe.*

SECTION 31. Section 94.49 of the statutes is amended to read:

94.49 POWER OF EXAMINERS TO OBTAIN EVIDENCE. The veterinary examiners and the commissioner of agriculture shall have power to * * * *conduct hearings and take testimony.* * * * A record of all hearings shall be kept in the office of the department. The commissioner of agriculture shall act as chairman in such hearings.

SECTION 32. Section 99.19 of the statutes is amended to read:

99.19 POWER TO SECURE EVIDENCE. (1) The commissioner or any official, employe or agent of the department, authorized by him may (in relation to any matter within the department's powers) issue subpoenas * * * and take testimony.

(2) * * * *The witnesses and every officer who * * * subpoenas them shall be entitled to the same fees as are allowed to witnesses and officers in * * * courts of record. Such fees shall be audited and paid by the state in the same manner as other expenses of the department are audited and paid.* * * * No witness subpoenaed at the instance of any party other than the department shall be entitled to payment of fees by the state, unless the department certifies that the testimony of such witness was material to the hearing or proceeding.

(3) No person shall, without reasonable cause, fail to comply with a subpoena issued under this section, nor * * * refuse to be sworn or to be examined, or to answer a proper question, or produce a pertinent document, when ordered to do so by the official, employe or agent conducting the investigation or proceeding.

* * *

SECTION 33. Section 101.19 of the statutes is amended to read:

101.19 TESTIMONIAL POWERS OF COMMISSION. Each of the commissioners * * * shall have power to * * * certify to official acts, * * * and *take testimony.* * * *

SECTION 34. Subsections (3), (4), (5) and (6) of section 102.17 of the statutes are amended to read:

102.17 (3) The commission, or any member thereof, or any examiner appointed thereby, * * * *may hold hearings and take testimony.*

(4) Any person who shall willfully *and unlawfully* fail or neglect to appear * * * or to testify or to produce books, papers and records as required, * * * shall be guilty of a misdemeanor and upon conviction * * * fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned in the county jail not longer than thirty days. * * * Each day such person shall so refuse or neglect shall constitute a separate offense.

* * *

* * * (5) In all proceedings upon claims for compensation against the state, the attorney-general * * * may appear on behalf of the state.

SECTION 35. Subsection (1) of section 195.29 of the statutes is amended to read:

195.29 WITNESSES, DEPOSITIONS, ETC. (1) Each of the commissioners * * * shall have power to * * * certify to official acts. * * *

SECTION 36. Section 298.06 of the statutes is amended to read:

298.06 ARBITRATORS, TESTIMONY, AWARDS. * * * All the arbitrators selected as prescribed in this chapter must meet together and hear all the allegations and proofs of the parties; but an award by a majority of them is valid unless the concurrence of all is expressly required in the submission.

SECTION 37. Section 366.06 of the statutes is amended to read:

366.06 WITNESSES; PHYSICIAN'S FEES. * * * The attendance of * * * witnesses may be enforced in the same manner, and they shall be subject to the same penalties as if * * * subpoenaed in behalf of this state to attend a justice's court; and * * * the justice taking such inquest * * * may require by subpoena the attendance of one or more competent physicians or surgeons for the purpose of making an examination of the body and of testifying as to the result of the same. Such physicians and surgeons * * * shall, instead of witness' fees, receive such reasonable compensation as may be allowed by the county board, * * * but not * * * less than five dollars for each examination.

SECTION 38. Chapter 326 of the statutes shall be numbered and entitled CHAPTER 326 DEPOSITIONS, OATHS AND AFFIDAVITS.

SECTION 39. Section 326.01 of the statutes is amended to read:

326.01 OATHS, WHO MAY ADMINISTER. (1) WITHIN THE STATE. An oath or affidavit required or authorized by law (except oaths to jurors and witnesses on a trial and such other oaths as are required by law to be taken before particular officers), may be taken before any judge, court commissioner, * * * resident * * * United States * * * *commissioner* who * * * *has* complied with section 235.19, clerk or deputy clerk of a court of record, notary public, town clerk, village clerk, *city* clerk, * * * justice of the peace, police justice, county clerk or *his* deputy * * * within the territory in which such officer is authorized to act; and, when certified by such officer to have been taken before him, may be read and used in any court * * * and before any officer, * * * *board or commission*. Oaths may be administered by any * * * *person* mentioned in subsections (3) and (4) of section 325.01 to any witness examined before * * * *him*.

(2) WITHOUT THE STATE. * * * Any oath or affidavit * * * required or authorized by * * * law * * * may be taken in any other state, territory or district of the United States before any judge or commissioner of a court of record, master in chancery, notary public, justice of the peace or other officer authorized by the laws * * * *thereof* to administer oaths, and in case the same shall have been properly certified by any such officer to have been taken before him, and shall have attached thereto a certificate of the clerk * * * of a court of record of the county or district within which such oath or affidavit was taken, under the seal of his office, that the person whose name is subscribed to the jurat was, at the date thereof, such officer as he is therein represented to be, *was empowered by law as such officer to administer the oath or affidavit*, and that he believes the *name so subscribed is the signature* of such officer, * * * such oath or affidavit may be read or used in any court * * * within this state and before any officer, * * * *board or commission authorized to use or consider the same*. * * * Whenever any such oath or affidavit is certified by any notary public or *clerk of a court of record* and an impression of his official seal is thereto affixed no further attestation shall be necessary.

SECTION 40. Subsection (8) of section 19.01 is repealed, and sections 326.02 and 271.50 of the statutes are consolidated, and renumbered section 326.02 and amended to read:

326.02 DUTY TO ADMINISTER OFFICIAL AND ELECTION OATHS; NO FEES. (1) It shall be the duty of every person *thereto* authorized by law * * * to administer and certify, on demand, any official oath and any oath required on any nomination paper, petition or other instrument used in the nomination or election of any candidate for public office, or in the submission of any question to a vote of the people.

(2) * * * No fee shall be charged by any officer for administering or certifying any official * * * oath, * * * or * * * any oath * * * to any person * * * relative to his right to be registered or to vote.

SECTION 41. Section 326.03 of the statutes is amended to read:

326.03 OATH, HOW TAKEN. * * * Any oath or affidavit * * * required or authorized by law * * * may be taken in any of the usual forms, and every person swearing, affirming or declaring in any such form shall be deemed to have been lawfully sworn. * * *

SECTION 42. Section 326.06 of the statutes is repealed; and subsection (1) of section 326.05 of the statutes is renumbered section 326.05 and amended to read:

326.05 DEPOSITION, MAY BE TAKEN, * * * Depositions (*including that of a party taken on his own behalf*) may be taken * * * to be used before any court, * * * magistrate or any other person authorized to * * * hear testimony, in any *civil* action, matter or proceeding *whatever*, or on any motion therein, * * * .

SECTION 43. Subsection (2) of section 326.05 is renumbered section 326.06 of the statutes and is amended to read:

326.06 DEPOSITIONS IN CRIMINAL CASES. (1) * * * In * * * any criminal or quasi-criminal * * * action or examination * * * in a court * * * of record or before a judge thereof, * * * depositions may be taken when allowed by an order of the court or presiding judge; such order may be made only when the court or judge is satisfied that due diligence has been used in making such application, that * * * the person whose deposition is wanted is a material witness, * * * and is in * * * imminent danger of death, or that he resides without the state, or is to be without the state, at the time of the examination or the trial, and that his attendance cannot, by the use of due diligence, be procured upon the examination or the trial. * * * Such application by the

*defendant shall be accompanied by proof of notice to the district attorney of the time and place it is to be presented; and such an application on the part of the state shall be accompanied by proof of a like notice to the defendant or his attorney of record. The order shall * * * direct whether * * * the deposition shall be taken on oral * * * or written interrogatories.*
* * *

(2) *When the state procures such an order, its notice (in addition to what is required by section 326.09) shall * * * inform the defendant that he is required to personally attend at the taking of such deposition, and that * * * his failure so to do * * * shall constitute a waiver of his right to * * * face the witness whose deposition is to be taken; and * * * failure to attend shall constitute such waiver unless the court * * * or judge is satisfied, when the deposition is offered in evidence, that the defendant was physically unable to attend. * * * If the defendant be not then in jail he shall be paid * * * witness fees for * * * travel and attendance; but, in case the defendant be * * * in jail, the sheriff, at the request of the district attorney, shall at the expense of the county * * * have the defendant * * * in attendance at the taking of such deposition. * * * If the defendant is in custody, leave to take such deposition on behalf of the state * * * shall not be granted, unless all states * * * in which the sheriff will travel with the defendant in going to the place where such deposition is to be taken shall have conferred upon the officers of this state the right to hold and convey * * * prisoners in * * * and through * * * them.*

SECTION 44. Subsection (3) of section 326.05 of the statutes is repealed, and section 357.26 of the statutes is amended to read:

357.26 FEE FOR DEFENSE OF INDIGENT DEFENDANT. The courts of record * * * may appoint counsel to defend any person * * * charged with any offense before such courts, * * * if the accused is destitute of means to employ counsel, and such appointment shall be in time to enable counsel to attend at the taking of any deposition for which leave is granted. The county in which such criminal action or proceeding * * * shall be pending shall * * * pay such * * * counselor for his services such sum as the court making the appointment shall, by an order to be entered in * * * its minutes, * * * certify to be a reasonable compensation, * * *

but not to exceed twenty-five dollars per day for each day actually occupied in such trial or proceeding, and not to exceed fifteen dollars per day for not more than five days actually and necessarily occupied in preparing for trial in any one case, and, in addition thereto, the court may allow him ten dollars per day and traveling expenses for attendance at the taking of depositions. Such compensation to counsel for indigent persons shall be paid by the county treasurer upon presentation to him of the certificate of the clerk of the said court * * * *therefor.*

SECTION 45. Section 326.07 of the statutes is amended to read:

326.07 DEPOSITIONS WHEN AUTHORIZED. *Except in the cases covered by section 326.06,* the deposition of a witness * * * may be taken when:

(1) He shall live more than thirty miles from the place of trial or hearing of the action, proceeding or matter in which his testimony is wanted or beyond reach of the subpoena of the court.

(2) When he shall be about to go out of the state, not intending to return in time for the trial or hearing.

(3) When he is so sick, infirm or aged as to make it probable that he will not be able to attend at the trial or hearing.

(4) When he shall be a member of the legislature, * * * if any committee of the same or * * * the house * * * of which he shall be a member, shall be in session, provided he waive his privilege.

(5) When his testimony is material to any motion or other similar proceeding * * * in any court of record, and he shall have refused * * * to make * * * affidavit of the facts, within his knowledge, in reference thereto.

SECTION 46. Section 326.08 of the statutes is amended to read:

326.08 DEPOSITION; ATTENDANCE OF WITNESS. Any witness may be subpoenaed and compelled to give his deposition at any place within twenty miles of his abode, * * * under the same penalties as he may be subpoenaed and compelled to attend as a witness in any court.

SECTION 47. Section 326.09 of the statutes is amended to read:

326.09 DEPOSITIONS; WHEN TAKEN, BEFORE WHOM, NOTICE, ABSENCE OF OFFICER; DISQUALI-

FICATIONS. (1) Such deposition, *in this state*, may be taken * * * by a justice of the peace, notary public, court commissioner or other person authorized * * * to take depositions, at any time after the action or proceeding is commenced or after a submission to arbitration.

(2) Notice in writing shall be given to the adverse party, his attorney or agent, that the deposition of the * * * witnesses named will be taken before the *named* officer, * * * at a time and place appointed therein, for * * * *a statutory cause, * * * specifying the cause*; and three days' notice shall be given of the taking of such deposition, * * * and additional time at the rate of one day for each three hundred miles or fraction thereof after the first * * * *thirty* miles from the place where the notice is served. *No notice need be given to a defendant who, having been served with process, shall not have appeared, if the time for appearance has expired.*

(3) One day's notice shall be sufficient to authorize the taking of depositions of additional witnesses desired to be examined, given during the course of the taking of any deposition where the parties on each side appear.

(4) * * * In case the officer * * * *designated* shall not * * * attend at the time and place noticed for taking the * * * deposition, *it may be taken before any other officer, authorized * * * to take depositions, * * * designated by the party * * * who served the notice of taking deposition, and notice of such designation * * * to the opposite party, * * * in sufficient time to attend before * * * the officer so designated if * * * the opposite party shall have appeared at the time and place mentioned in * * * the first notice; but if he shall not so appear, * * * the moving party * * * may, after waiting one hour, proceed to take such deposition before such other officer without further notice. * * **

(5) *No deposition shall be taken before any officer or commissioner who is the attorney or of counsel for any party or person interested, or is himself otherwise interested in the action, matter or proceeding in or for which the deposition is taken, except by written consent of the parties.*

SECTION 48. Section 326.10 and subsections (9) and (10) of section 326.12 of the statutes are consolidated, renumbered section 326.10 and revised to read:

326.10 DEPOSITIONS; HOW TAKEN AND RETURNED. The deponent shall be sworn to testify the truth,

the whole truth and nothing but the truth relating to the action, proceeding or matter for which his testimony is taken, and his testimony shall be taken in writing, or in shorthand by a stenographer approved by the officer taking the same, or by all parties in interest, and by such stenographer reduced to long-hand. There must be inserted therein every answer or declaration of the witness and every oral interrogatory which any party requires to be inserted. The deposition must be read to or by the witness and subscribed by him, unless the parties represented shall stipulate, upon the record (which they may do), that the reading of the deposition to or by the deponent and his signature thereto are waived, and that the deposition may be used with like force and effect as if read and subscribed by him. The attendance of the deponent for the purpose of reading and subscribing his deposition may be compelled in the same manner that his attendance to be examined may be compelled. The deposition shall in all cases be delivered or transmitted by the officer by whom the same is taken to the clerk of the court, the magistrate, board or officer before whom the action, proceeding or matter is pending, securely sealed, and shall remain sealed until opened by such court, clerk, magistrate, board or officer.

SECTION 49. Section 326.12, except subsections (9) and (10) of the statutes, is revised to read:

326.12 DISCOVERY EXAMINATIONS BEFORE TRIALS. (1) **PERSONS SUBJECT THERETO.** The adverse examination of a party, his or its assignor, officer, agent or employe, or of the person who was such officer, agent or employe at the time of the occurrence made the subject of the examination, may be taken by deposition at the instance of any adverse party upon oral or written interrogatories in any civil action or proceeding at any time before final determination thereof. Each of said persons may be so examined once and no more, except when examined before issue joined, in which case he may be again examined after issue joined, upon all the issues. If the examination is taken after the complaint is served, but before issue is joined, it may extend to all the allegations of the complaint.

(2) **PROCEDURE SAME AS FOR OTHER DEPOSITIONS, EXCEPTIONS.** Except as provided otherwise by this section, such examination may be had within or without the state, and may be instituted

and conducted under and pursuant to the laws and rules regulating the taking of other depositions for use in actions or proceedings.

(3) **TIME, PLACE, NOTICE; OFFICERS EMPOWERED TO TAKE.** Such examination, when taken within the state, shall be taken before a judge at chambers or a court commissioner on previous notice to all adverse parties or their respective attorneys of at least five days. If the person to be examined is a nonresident individual who is a party to the action or proceeding, or is a nonresident president, secretary, treasurer or managing agent of a foreign corporation that is a party to the action, the court may upon just terms fix the time and place of such examination, either within or without the state, and such nonresident shall attend at such time and place and submit to the examination, and, if required, attend for the reading and signing of such deposition, without service of subpoenas. Such examination shall not be compelled in any county other than that in which the persons examined resides, except when a different county shall be designated for the examination of a nonresident, and except that any nonresident subject to examination may be examined in any county of this state in which he is personally served with notice and subpoena.

(4) **DISCOVERY NEEDED TO PLEAD.** If discovery is sought, to enable the plaintiff to frame a complaint, the notice of taking the examination shall be accompanied by the affidavit of himself, his attorney or agent, stating the general nature and object of the action or proceeding; that discovery is sought to enable him to plead, and the subjects upon which information is desired; and the examination relative thereto shall be permitted unless the court or presiding judge thereof shall, before the examination is begun, further limit the subjects to which it shall extend, which may be done on one day's notice.

(5) **USE OF DEPOSITION.** Such portions of any such deposition as are relevant to the issues may be offered by the party taking the same, and shall be received when so offered upon the trial of action or proceeding in which it is taken, notwithstanding the deponent may be present.

SECTION 50. Section 326.13 of the statutes is amended to read:

326.13 DEPOSITION, WHEN NOT USED. *Except as provided in section 326.12, no deposition shall be used if it*

shall appear that the reason for taking it no longer exists, unless the party producing it shall show other sufficient cause then existing for its use. * * *

SECTION 51. Section 326.19 of the statutes is renumbered section 269.55 and amended to read:

269.55 * * * INSPECTION OF PROPERTY BY PARTY. * * * *In any civil action or proceeding * * * in a court of record * * * the court or the presiding judge * * * may, after issue joined, and on application, order a party to permit an opposite party * * * and his witnesses * * * to inspect any * * * property, * * * the inspection of which may be deemed material and necessary. * * **

SECTION 52. Section 326.211 of the statutes is repealed.

SECTION 53. Section 326.22 of the statutes is amended to read:

326.22 FORM OF CERTIFICATE. The * * * officer shall annex to the deposition a certificate substantially as follows:

STATE OF WISCONSIN, }
 COUNTY. } ss.

I, A. B. (add official designation), in and for said county, do hereby certify that the above deposition was taken before me at my office, in the * * *of....., in said county, on the day of, 19...., at o'clock, noon; that it was taken at the request of the plaintiff (or defendant, or other person procuring it), upon verbal (or written) interrogatories; that it was reduced to writing by myself (or * * * by a disinterested person, in my presence, and under my direction, *or was taken in shorthand by approved by me, or by all parties in interest and by him reduced to longhand*); that it was taken to be used in the action of A. B. vs. C. D., now pending in court (or to be used in some proceeding or matter, mentioning it), and that the reason for taking it was (here state the true reason); that attended at the taking of such deposition (or that a notice, of which the annexed is a copy, was served upon on the day of, 19....; or that the deposition was taken in pursuance of the annexed stipulation); that said deponent, before examination, was sworn to testify the truth, the whole truth and nothing but the truth relative to said cause, and that said deposition was carefully read to (or by) said

deponent and then subscribed by him (*or the parties attending the taking of the deposition stipulated on the record, that the reading of the deposition by or to the deponent and his signature thereto is waived and that it may be used as if read and signed*).

A. B. (adding official designation).

SECTION 54. Section 326.23 of the statutes is amended to read :

326.23 DEPOSITION RELATIVE TO PUBLIC INSTITUTIONS. (1) **WHO MAY REQUIRE.** The state board of control, * * * the board of regents of the university, and the board of regents of normal schools may, by resolution duly adopted, require *any of its members to procure* the deposition of any witness to be taken concerning any institution under * * * *its government or superintendence, or concerning* the conduct of any officer or agent thereof, or *concerning* any matter relating to the interests thereof. * * * Upon presentation of a certified copy of such resolution * * * *to any justice, notary public or court commissioner, such officer shall* * * * take the *desired deposition* * * * *in the manner provided for taking depositions to be used in actions.* When any officer or agent of any institution is concerned and * * * *will be affected by the testimony, two days' written notice of the time and place of taking* * * * such deposition shall be given him. * * * Any party interested may appear in person or by counsel and examine the witness touching the matters * * * *mentioned in the resolution.* The deposition, duly certified, shall be delivered to the board * * * *or member taking* * * * the same.

(2) **FEEES.** Every officer who shall take a deposition, and every witness who shall appear and testify under this section, shall be paid the fees allowed * * * *on the taking of other depositions, and the account of the board* * * * for such fees and other like expenses incurred in taking any such deposition, being duly certified *by the board,* shall be paid out of the state treasury *and charged to the appropriation of the board.*

SECTION 55. Section 326.24 of the statutes is amended to read :

326.24 DEPOSITION; FOR USE IN OTHER STATES. Any witness may be subpoenaed and compelled * * * to attend and give his deposition before any * * * person authorized to take depositions in this state, or before any commissioner appointed under the authority of any other state, territory or country, or any court thereof, in any action, cause or proceeding pending in such other state, territory or country; * * * *pro-*

vided, its laws * * * contain provisions similar to this section, requiring persons within its borders to give their testimony by deposition in actions pending in Wisconsin.

SECTION 56. Section 326.25 of the statutes is amended to read:

326.25 WITNESSES IN WISCONSIN TO ATTEND IN OTHER STATES. (1) Upon presentation to any judge of a court of record in Wisconsin of the certificate of the judge or the clerk of any *foreign* court of record. * * * under * * * seal, * * * stating that any person being or residing in Wisconsin is believed to be a * * * necessary witness in any civil or criminal action pending in that court, such judge (if satisfied by such proof as he shall require that the testimony of such witness is * * * necessary to the trial of such action) shall issue and attach to such certificate a subpoena commanding such witness to appear * * * in the court where such * * * action is pending, at the time and place stated therein, or show cause, before such judge, at a time and place fixed in such subpoena, why he should not appear * * * as therein commanded. Such judge may * * * refuse to issue a subpoena or may vacate the subpoena after it is issued, if it appear that * * * *compliance* will cause * * * *undue* hardship to the witness. * * *

(2) If any person on whom such subpoena has been served, * * * and to whom has been tendered * * * the sum of ten cents for each mile to be traveled to and from the court, together with the sum of five dollars for each day that his attendance is required, shall neglect to attend and testify at such trial, he shall be punished * * * *as for a criminal contempt* unless such subpoena * * * *shall* be vacated. * * *

(3) This section shall not apply to any action pending in any * * * state, territory or country whose laws do not contain provisions similar to this section, requiring persons within their borders to attend * * * for the purpose of testifying in any civil or criminal action pending in this state.

SECTION 57. Section 326.26 of the statutes is amended to read:

326.26 DEPOSITIONS WITHOUT STATE. (1) WHO MAY TAKE. * * *. In any *civil* action, proceeding or matter, in which depositions may be taken within the state, the deposition of any witness, without the state, may be taken *by any notary public or justice of the peace, or by any judge or justice, court commissioner or master in chancery of any court of record of the United States, or any state or territory thereof, * * * or by*

any commissioner * * * appointed pursuant to * * * *section 137.02* within the territory in which any such officer is authorized to act, * * * or by commissioners appointed specially for that purpose. * * * Such deposition may also be taken by commissioners in a foreign country by any judge or clerk of a court of such country, any notary public, consul, vice consul, deputy consul or consular agent of the United States, resident in such country, by any officer authorized by the laws of the United States to take depositions, or by * * * *other persons commissioned* for that purpose. * * *

(2) * * * TRANSLATIONS. When * * * *the witness is unable to speak the English language*, the judge of the court from which the commission issues * * * may appoint some competent and disinterested person to translate the commission, rules, interrogatories and cross-interrogatories, or such part thereof as may be necessary, from the English into the language spoken by the witness; and such translation * * * shall be sent to the commissioner in place of the original papers * * * *that* have been translated. * * * Upon the return of the commission and deposition, such judge shall in like manner cause the answers of the witness and the exhibits to be translated into English, as well as all other proceedings in a foreign language, and such translation to be filed. * * * *The* translator shall append to all * * * translations his affidavit that he knows the English and such foreign language, and that in making such translation he carefully and truly translated such proceedings from the English into such foreign language or from the latter into English, and that such translation is correct. Such translation shall have the same effect as if all the proceedings were in English, but the trial court, upon the deposition being offered in evidence, may admit the testimony of witnesses learned in such foreign language for the purpose of correcting errors therein; and, if it shall appear that the first translation was in any respect so incorrect as to mislead the witness, the court may, in discretion, continue the cause for the further taking of testimony.

(3) * * * GENERAL PROVISIONS APPLY. * * * Such depositions *without the state* * * * may be taken, *certified, returned, filed and used* in the * * * manner and under the * * * provisions of law * * * *applicable to depositions* * * * taken within the state. * * *

* * *

(4) COMMISSION TO TAKE. A commission may issue from any court of record * * * *in this state* to take the deposition of any * * * witness *without the state*, * * * where an issue of fact has been joined *or the time therefor has expired*, * * * for any * * * cause which shall be deemed sufficient by the court, *or* * * * when required for use on any trial or hearing or upon any motion or proceeding before or after judgment. The commission shall be signed by the clerk or judge, sealed with the seal of the court, and be in the form heretofore commonly used.

(5) PROCURING COMMISSION. (a) * * * The party desiring *a commission* * * * shall prepare * * * interrogatories and state in the caption thereof the name of the commissioner proposed by him, the name * * * and the place of residence of * * * *the witness*, and shall serve a copy thereof on the opposite party, with a notice that, at the expiration of ten days from the date of such service, a commission will be issued to take the deposition of the witness, * * * specifying the cause or reason for which the same is so to be taken. Within such time the opposite party may file with the clerk and serve upon the other his objections, * * * to the direct interrogatories * * * and also his cross-interrogatories; and may state * * * the name of any * * * person whom he desires to act as an additional commissioner; but such person must be resident in the same county in which the commissioner first named resides. * * *

(b) At the expiration of the time limited, * * * the moving party may file the notice and interrogatories, with proof of service thereof and his objections * * * to the cross-interrogatories. He may also serve redirect interrogatories on the opposite party, who may, within three days after such service, * * * file objections * * * to such redirect interrogatories. Thereupon the commission shall be issued, with the interrogatories, direct, cross and redirect, and all objections, and transmitted to the commissioner first named. But when * * * any defendant shall not have appeared *and the time for him to plead has expired*, * * * no notice is required to be given such defendant, and the commission may issue on filing the direct interrogatories.

(6) DUTY OF COMMISSIONER. The commissioner *first* named * * * shall fix the time and place for executing the commission and give the other commissioner * * * one day's notice thereof, when he resides in the same place, and when not, one day's notice in addition for every thirty miles of distance be-

tween the place of his residence and the place fixed for executing the commission. If the notice be by mail double time shall be allowed; but notice may be waived in writing or by appearance at the execution of the commission. If there be two commissioners the * * * commission shall be *executed* * * * in the county where they reside, unless they agree upon another. The commissioner first named * * * shall have charge of and return the deposition, *which return shall be in the form and manner directed by the commission or as provided by section 326.22.*

(7) FEES. The officer or persons who take any depositions * * * and the witness * * * shall be entitled to the * * * fees allowed justices of the peace and witnesses for similar service by the law of this state, or such as may be prescribed by the law of the state or country where taken. Each party shall pay the fees of the commissioner named by him, and his * * * fees, * * * and those of the witnesses, may be taxed as disbursements.

SECTION 58. Section 326.27 of the statutes is amended to read:

326.27 PERPETUATION OF TESTIMONY. (1) REQUEST FOR. When any person * * * *desires* to perpetuate * * * testimony * * * *in this state* he shall make a *written* statement * * * of his title, claim or interest in or to the subject concerning which he desires to perpetuate the evidence and the names of all other persons interested or supposed to be interested therein, and * * * the name of the witness proposed to be examined, and shall deliver the * * * statement to a judge of a court of record, requesting him to take the deposition of the * * * witness.

(2) NOTICE OF TAKING. The said judge shall thereupon cause notice to be given of the time and place appointed for taking the deposition to all persons mentioned * * * as interested; * * * which notice shall be given in the * * * manner * * * prescribed * * * *by section 326.09.*

(3) MANNER OF TAKING, CERTIFICATION. The deponent shall be sworn and examined and his deposition shall be written, read and subscribed, *and his attendance may be required* in the * * * manner * * * prescribed respecting the other depositions, * * * and the judge shall annex thereto * * * *his certificate* * * * of the time and manner of taking it, and that it was taken in perpetual remembrance of the thing; and * * *

containing the names of the persons at whose request it was taken, and of all those who were notified to attend, and of all who did attend the taking thereof.

(4) DEPOSITION RECORDED. The deposition, * * * the certificate and * * * the written statement of the party at whose request it was taken, shall, within ninety days after the taking thereof, be recorded in the registry of deeds in the county where the land lies, if the deposition relates to real estate; otherwise, in the county where *some of* the parties * * * reside.

(5) DEPOSITION, WHEN USED. *The deposition or a certified copy of such record thereof may be used in* * * * any action or proceeding * * * between the person at whose request it was taken and the persons named in the said written statement, or any of them, who were notified as aforesaid, or any person claiming under either of the said parties * * * concerning the title, claim or interest set forth in the statement, * * * in the same manner and subject to the same conditions and objections as if it had been originally taken for * * * said action or proceeding.

* * *

SECTION 59. Section 326.28 of the statutes is amended to read:
326.28 PERPETUATION OF TESTIMONY WITHOUT THE STATE. (1) COMMISSION. Depositions to perpetuate the testimony of witnesses * * * without the state may be taken * * * upon a commission to be issued by any court of record in the manner hereinafter provided.

(2) APPLICATION. The * * * applicant shall file * * * a statement like that * * * prescribed * * * for taking such a deposition within this state; and if the * * * proposed deposition relate to real estate within this state, the statement shall be filed in the county where the land or * * * part thereof lies; otherwise, in the county where *some of* the parties * * * reside.

(3) * * * NOTICE. The court shall order a hearing and that fourteen days' notice thereof be * * * given to all * * * persons mentioned * * * as adversely interested * * * and living within the state. * * *

(4) * * * APPLICATION IN VACATION. The applicant * * * may, at his election, file his statement in the clerk's office in vacation, and * * * give notice thereof to * * * the persons therein named as adversely interested by serving them with

* * * *a certified* * * * copy of the * * * statement, fourteen days * * * before the next term of * * * court; and the court may thereupon * * * hear the parties. * * *

(5) COMMISSION, WHEN TO ISSUE. If, upon such hearing, * * * the court shall be satisfied that there is sufficient cause for taking the deposition, it shall issue a commission therefor in like manner as for taking a deposition to be used in any * * * pending *cause* * * * .

(6) HOW TAKEN. The deposition shall be taken upon written interrogatories * * * and cross-interrogatories; * * * and * * * returned substantially * * * as if taken to be used in * * * *a pending cause* * * * .

(7) HOW USED. All depositions * * * taken * * * according to the provisions of this * * * *section* may be used in like manner as if taken within this state.

SECTION 60. Section 326.29 of the statutes is amended to read:

326.29 PERPETUATION OF TESTIMONY AS AGAINST ALL PERSONS. (1) COMMISSION. Depositions to perpetuate the testimony of witnesses, within or without the state, so that the same may be evidence against all persons, may be taken upon a commission to be issued * * * by any court of record.

(2) APPLICATION. The *commission may be applied for* * * * in the manner * * * prescribed in *section 326.28*; * * * and all proceedings thereon shall be * * * as * * * prescribed in * * * *said section except as herein otherwise provided*.

(3) APPLICANT QUESTIONED; NOTICE. The court shall * * * inquire, * * * at * * * discretion, as to all persons known or supposed to be interested; * * * and shall, in the commission, direct the commissioner * * * to publish in such newspaper or newspapers, * * * or in such other manner as the court shall consider most effectual, * * * notice of the time and place * * * such depositions *will be taken*, and of the subject matter thereof; * * * which notice shall be addressed, * * * by name, to * * * *each person* * * * who * * * is known or supposed to be interested, * * * and generally to all others, *and shall state* that they may attend and * * * cross * * * *examine* the witnesses; and the court may also require personal notice of the time and place of taking, and the subject matter of such depositions to be given to such persons and in such manner as * * * shall seem proper.

(4) RECORDING DEPOSITION. Such deposition, having been * * * returned to the court, * * * and being found by the court (*after notice to the parties who have appeared in the matter*), to have been taken according to law and the directions contained in the commission, the court shall order it * * * recorded within thirty days in the registry of deeds for the county.
* * *

(5) USE OF DEPOSITION. Any deposition so taken and recorded * * * or a certified copy thereof from the registry may be used by the person at whose request it was taken, or by any person claiming under him, against any person whatever in any action or proceeding wherein shall be brought in question the title, claim or interest set forth in the statement upon which the commission was founded in the same manner and subject to the same conditions and objections as if it had been originally taken for said action or proceeding.

SECTION 61. Chapter 327 of the statutes is entitled CHAPTER 327 DOCUMENTARY AND RECORD EVIDENCE.

SECTION 62. Section 327.01 of the statutes is amended to read:

327.01 PUBLICATION BY STATE AS EVIDENCE OF LAWS. * * * *Books, pamphlets and other documents purporting to be printed by the state as copies of * * * its statutes, legislative acts and resolves, * * * or as copies of the journals of the senate and assembly, * * * are prima facie evidence * * * that they are such publication as they purport to be, and are correct copies of such statutes, acts, resolutions and journals, respectively; and * * * such printed journals of said houses, respectively, * * * are prima facie evidence of * * * their proceedings.*

SECTION 63. Section 327.02 of the statutes is amended to read:

327.02 STATUTES OF UNITED STATES AND OTHER STATES. *Books, pamphlets and other documents purporting to be printed by the United States or any state or territory thereof as copies of * * * its statutes, * * * congressional or legislative acts and * * * resolutions, * * * or if commonly admitted and read as evidence in their courts, * * * are presumptive evidence of such * * * statutes, acts and * * * resolutions.*

SECTION 64. Section 327.03 of the statutes is revised to read:

327.03 COPIES CERTIFIED BY STATE LIBRARIAN; FEES. Matter contained in any book or pamphlet in the state li-

brary, purporting to be a copy of the opinion of any court, or of any statute, law, act or resolution of any state, territory, the United States, or any foreign country, certified by the state librarian, is prima facie evidence of the contents of such opinion, statute, law, act or resolution. The fee for such certification is the same as that provided for similar certification by the clerk of the supreme court.

SECTION 65. Section 327.04, except the last sentence, of the statutes is revised to read :

327.04 MUNICIPAL ORDINANCES, JUDICIAL NOTICE. Matter printed in any newspaper, book, pamphlet, or other form purporting to be so published by any city or village in this state as a copy of its ordinance, by-law, resolution or regulation, is prima facie evidence thereof; and after three years from the date of such publication, such book or pamphlet shall be conclusive proof of the regularity of the adoption and publication of the ordinance, by-law, resolution or regulation.

SECTION 66. Section 327.05 of the statutes is amended to read :

327.05 COMMON LAW OF SISTER STATES. The unwritten or common law of any state or territory of the United States may be proved * * * by parol evidence, and *by* the books of reports of cases adjudged in * * * *its* courts. * * *

SECTION 67. Section 327.06 of the statutes is amended to read :

327.06 ALIEN LAWS. * * * Foreign laws may be proved * * * by parol evidence; but if it shall appear that the law in question is contained in a written statute or code the court may * * * reject any evidence of such law that is not accompanied by a copy thereof.

SECTION 68. Section 327.07 of the statutes is amended to read :

327.07 COURT RECORDS AND COPIES. The original records, papers and files in or concerning any action or proceeding of any nature or description in any court of the state, being produced by the legal custodian thereof, shall be receivable in evidence * * * *whenever relevant*; and * * * *a certified copy* * * * thereof * * * shall be received with like effect as the original.

SECTION 69. Section 327.08 of the statutes is amended to read :

327.08 COPIES, HOW CERTIFIED, PRESUMPTIONS.

(1) Whenever a certified copy * * * is allowed by law to be evidence, such copy shall be certified by * * * *the legal cus-*

todian of the original to have been compared by him with the original, * * * and to be a true copy thereof or a correct transcript therefrom, or to be a photograph of the original; such certificate must be under his official seal or under the * * * seal of the court, public body or board, * * * whose custodian he is, when he or it is required * * * to have or keep * * * such seal.

(2) *The secretaries of the Wisconsin state boards and commissions and the chief clerk of the state land office, shall be deemed, for the purposes of this section and section 327.09, the legal custodians of the files and records of their respective boards, commissions and land office.*

(3) Any certificate purporting to be signed, or signed and sealed, as authorized by law, shall be presumptive evidence that it was signed by the proper officer, and if sealed, that it has the proper seal affixed, except when the law requires an additional certificate of genuineness.

(4) * * * The seal * * * need not be affixed to a * * * copy of a rule or order made by * * * a court, or of any paper filed therein, when such copy is used in the same court or before any officer thereof.

SECTION 70. Section 327.09 of the statutes is amended to read:

327.09 CERTIFICATION OF NONFILING. Whenever any officer to whom the legal custody of any document * * * belongs, shall certify (under his official seal, if he have any) that he has made diligent examination in his office for such * * * document, and that it cannot be found or that the same had not been filed or recorded in his office, such certificate shall be presumptive evidence of the fact so certified.

SECTION 71. Section 327.11 of the statutes is amended to read:

327.11 REPORTER'S TRANSCRIPT AS EVIDENCE. Any writing certified by the official reporter of any court to have been carefully compared by him with his minutes of testimony and proceedings taken on any trial or hearing in such court, * * * and to be a true and correct transcript * * * of all or a specified portion of such minutes, * * * and to be a correct statement of the evidence and proceedings had on such trial or hearing, * * * shall be received in evidence with the same effect as * * * the oral testimony of such reporter * * * to the facts so certified.

SECTION 72. Section 327.12 of the statutes is repealed.

SECTION 73. Section 327.13 of the statutes is amended to read:

327.13 TRANSCRIPT OF JUSTICE'S RECORDS. A *certified* transcript from the *original records, papers and files in or concerning any action or proceeding in justice court shall not be admissible in evidence outside of the county, unless* * * * there shall be affixed a certificate of the clerk of the circuit court of the * * * county, under seal, * * * that the person * * * *who certified* the transcript was, at the date thereof, a justice of the peace of the county, or other person having legal custody of the books and papers; and * * * if the judgment was rendered by another, that such other was, at the date of the rendition of the judgment, a justice of the peace of the county.

SECTION 74. Section 327.14 of the statutes is amended to read:

327.14 PROOF OF UNRECORDED PROCEEDINGS BEFORE JUSTICE. * * * The proceedings in any cause had before a justice, not reduced to writing by said justice, nor being the contents of any paper or document produced before such justice, and the contents of any such paper or document as shall have been lost or destroyed, may be proved by the oath of the justice.

SECTION 75. Section 327.15 of the statutes is amended to read:

327.15 UNITED STATES AND STATE COURT RECORDS. The records and judicial proceedings of any court of the United States, or of any state or territory or district thereof, *and copies thereof*, shall be admissible in evidence in all cases in this state when authenticated *or certified* in the manner directed by * * * sections 327.07 and 327.08 * * * or * * * by * * * acts of congress. * * *

SECTION 76. Section 327.16 of the statutes is revised to read:

327.16 JUDGMENT OF FOREIGN JUSTICE. A *certified* copy of the record of the judicial proceedings of any foreign court not of record with a certificate of magistracy affixed, signed and sealed by the clerk of a court of record in the county or district where such proceedings were had, shall be admissible in evidence in all cases.

SECTION 77. Section 327.17 of the statutes is revised to read:
327.17 CONVEYANCES AND RECORD THEREOF.

Every instrument entitled by law to be recorded or filed in the office of a register of deeds, and the record thereof and a certified copy of any such record or of any such filed instrument, is admissible in evidence without further proof thereof, and the record and copies shall have like effect with the original.

SECTION 78. Section 327.18 of the statutes is revised to read:

327.18 OFFICIAL RECORDS. (1) **AS EVIDENCE.** Every official record, report or certificate made by any public officer, pursuant to law, is prima facie evidence of the facts which are therein stated and which are required or permitted to be by such officer recorded, reported or certified.

(2) **COPIES AS EVIDENCE.** A certified copy of any written or printed matter preserved pursuant to law in any public office or with any public officer in this state, or of the United States, is admissible in evidence whenever and wherever the original is admissible, and with like effect.

(3) **COPIES, DUTY TO MAKE.** Any such officer of this state who, when tendered the legal fee therefor and requested to furnish such certified copy, shall unreasonably refuse to comply with such request, shall forfeit not less than twenty nor more than one hundred dollars, one-half to the person prosecuting therefor.

SECTION 79. Section 327.19 of the statutes is amended to read:

327.19 PEDIGREE RECITALS IN DEEDS AND WILLS.

* * * Any deed, mortgage, land contract or other conveyance *that has been duly recorded in the proper register's office for twenty years, and any will that has been admitted to probate, containing* * * * a recital in respect to pedigree, consanguinity, marriage, celibacy, adoption or descent, * * * and being in other respects * * * admissible in evidence, * * * shall be admitted * * * as prima facie evidence *that the recital is true.* * * *

SECTION 80. Section 235.47 of the statutes is repealed and section 327.20 of the statutes is renumbered section 235.47 and is amended to read:

235.47 * * * RECORDS OF CONVEYANCES FOR NEW COUNTIES. Where a portion of * * * any county * * * shall have been * * * made a part or all of an-

other county, * * * and the original records of conveyances affecting the title to lands so set off shall * * * remain in such original county, the county board of such new county may * * * direct the register of deeds of either * * * county to prepare * * * *in book form* true and correct copies (with an entry in the margin of each conveyance showing the volume and page of the original record thereof) of all such original records, * * * and * * * he shall * * * enter * * * at the end of each transcribed volume under his hand and official seal *his certificate* to the effect that he has carefully compared the same with such originals, and that the foregoing are true and correct copies of such original records, and * * * of the whole thereof. * * * Such certified * * * volumes of records shall be * * * *kept* in the office of the register of deeds of such new county, and shall have the same effect as * * * *the* originals; and a copy of such certified records or of any of them shall be received in all courts and places as a copy of the original record.

SECTION 81. Section 327.21 of the statutes is amended to read:

327.21 PRIVATE WRITINGS; INSPECTION, COPIES. The court before which an action *or proceeding* is pending, or a judge thereof, may, in discretion and upon due notice, order either party to give to the other, within a specified time, an inspection and copy or permission to take a copy of any books, papers and documents in his possession or under his control containing evidence relating to * * * the action *or proceeding* * * *. If compliance with the order be refused, the court * * * may exclude the paper from being given in evidence or punish the party refusing, or both.

SECTION 82. Section 327.22 of the statutes is amended to read:

327.22 EXHIBIT OF PAPERS; ADMISSION OF GENUINENESS; COSTS. Either party *to an action or proceeding* may exhibit to the other or his attorney * * * any paper * * * and request an admission in writing of its genuineness. If the * * * admission *be not given* within four days after the request, and if the party exhibiting the paper be afterward put to expense * * * to prove its genuineness and the same be * * * proved or admitted on the trial, such expense (to be ascertained at the trial) shall be paid by the party refusing

the admission, unless * * * there were good reasons for the refusal.

SECTION 83. Section 327.23 of the statutes is amended to read:

327.23 ACKNOWLEDGED WRITINGS, EVIDENCE. Every written instrument, except promissory notes and bills of exchange, and * * * wills, * * * may be proved or acknowledged in the manner now provided by law for taking the proof or acknowledgment of conveyances of real estate, and * * * *when so proved and acknowledged shall * * * be competent evidence * * * whenever it is relevant. Any instrument, which is attested but which is not required by law to be witnessed, may be proved as though there were no attesting witness thereto.*

SECTION 84. Section 327.24 of the statutes is amended to read:

327.24 ACCOUNT BOOKS. (1) PROVED BY PARTY. * * * *The account books of a party to an action or proceeding shall be received as prima facie proof of the charges therein contained, if he shall testify and it shall satisfactorily appear from his testimony, that the same are his account books; * * * that they contain the original entries of charges for goods or other articles delivered, or * * * services performed or materials furnished; * * * that such entries are just, to the best of his knowledge and belief; that said entries are in his own handwriting; and that they were made at or about the time said goods or other articles were delivered, said * * * services were performed or said materials were furnished. * * * The party offering such * * * books * * * shall be * * * subject to * * * cross-examination. * * **

(2) PROOF BY BOOKKEEPER. When * * * the original entries * * * are in the handwriting of an agent, servant or clerk of the party, the * * * *testimony* of such agent, servant or clerk may, *with like effect and* in like manner, be admitted to verify the same. * * *

(3) CASH ITEMS; RENT CHARGE. Such books * * * shall not be admitted as * * * *proof* of any item of money delivered at one time exceeding five dollars, or of money paid to third persons, or of charges for rent.

(4) * * * LEDGER. Where a book * * * shows that

the items have been transferred to a ledger the book shall not be * * * evidence unless the ledger be produced.

(5) BOOKKEEPER DECEASED. *Book entries made by an authorized person, he being dead, may be received in evidence, in a case proper for the admission of the books as evidence.*

SECTION 85. Section 327.25 of the statutes is amended to read:

327.25 OTHER BOOK ENTRIES. * * * . Entries * * * on cards, sales slips, loose leaf sheets or in a book or other permanent form (other than those mentioned in sections 327.24 and 328.24), in the usual course of business, contemporaneous with the transactions to which they relate and as part of or connected with such transactions, made by persons authorized to make the same, may be received in evidence when shown to have been so made upon the testimony either of the person who made the same, or if he be beyond the * * * jurisdiction of the * * * court or insane, of any person having custody of the entries, and testifying that the same were made by a person * * * authorized to make them in whose handwriting they are, and that they are true and correct to the best of his knowledge and belief. In case such entries are, in the usual course of the business, also made in other books and papers as a part of the system of keeping a record of such transactions, it shall not be necessary to produce * * * all of the persons * * * who were engaged in the making of such entries; but before such entries are admitted the court shall be satisfied that they are genuine and in other respects within the provisions of this section.

SECTION 86. Section 327.26 of the statutes is amended to read:

327.26 COMPARISON OF WRITING. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be the genuine handwriting of any person claimed on the trial to have made or executed the disputed * * * writing, shall be permitted to be made by witnesses, and such writings and evidence respecting them may be submitted to the court or jury.

SECTION 87. Section 327.27 of the statutes is amended to read:

327.27 RECOVERY ON LOST NOTE. (1) In any action or defense founded upon any negotiable promissory note or bill

of exchange, * * * if it appear on the trial that such note or bill was lost or *was destroyed without the owner's fault*, while it belonged to the party claiming the amount due thereon, parol or other evidence of * * * *its contents* * * * may be given on such trial; * * * such party shall be entitled to recover or *setoff* the amount due thereon as if such note or bill had been produced.

(2) But to entitle a party to such recovery he shall execute a bond to the adverse party in a penalty at least double the amount of such note or bill, with two sureties to be approved by the *trial court*, * * * conditioned to indemnify the adverse party, his heirs and personal representatives against all claims by any other person on account of such note or bill and against all costs and expenses by reason of such claim.

SECTION 88. Chapter 328 of the statutes shall be entitled CHAPTER 328 PRESUMPTIONS AND JUDICIAL NOTICES.

SECTION 89. Section 328.01 of the statutes is amended to read:

328.01 LAWS OF OTHER STATES. The courts of this state shall take judicial notice of the *statutes of the United States, and of all the states and territories thereof*. * * *

SECTION 90. The last sentence of section 327.04 of the statutes is renumbered section 328.02 and amended to read:

328.02 MUNICIPAL ORDINANCES. * * * Municipal courts * * * shall take judicial notice of ordinances in cities in which they have jurisdiction.

SECTION 91. Section 328.03 of the statutes is amended to read:

328.03 LISTS OF STATE LANDS. All statements or lists of lands which shall have been certified * * * by the president of the United States, * * * or by any other officer of the government *thereof*, as conveyed to the state under or by any act of congress, being produced by the proper custodians thereof, shall be received in all cases as presumptive evidence that the title of the lands therein * * * described became thereby vested in the state.

SECTION 92. Section 328.04 of the statutes is amended to read:

328.04 CERTIFICATE AS TO PUBLIC LANDS. * * * The certificate of the *chief clerk of the state land office* * * * under the *official* * * * seal, that any specified piece or tract of land belongs to or is mortgaged to the state, or that the state has any interest, legal or equitable, therein shall be pre-

sumptive evidence of the facts so stated. * * * The certificate of the secretary of the conservation commission under the official seal of the commission that authority has been given to any person, naming him, to seize timber or other materials specified in * * * chapter 26 shall be presumptive evidence of the fact so stated.

SECTION 93. Section 328.05 of the statutes is amended to read:

328.05 LAND PATENTS BY STATE OFFICERS. Every patent which * * * *shall have been* * * * executed and delivered by the commissioners of school and university lands or * * * by the commissioners of public lands, purporting to convey any land, * * * and every deed or patent which shall have been * * * executed and delivered by the governor, purporting to convey any lands granted to the state by the United States, * * * shall be received as presumptive evidence of the facts therein stated and that the grantee named therein became vested thereby at the date thereof with an absolute title in fee to the lands therein described.

SECTION 94. Section 328.06 of the statutes is amended to read:

328.06 DEED ON JUDICIAL SALE. Every conveyance of land or any estate or interest therein * * * executed by any sheriff, referee, receiver or other person, * * * in pursuance of a sale made by virtue of any judgment, * * * order, license or execution of any court of record * * * in this state, and which shall have been * * * recorded in the proper county, * * * as well as such record, *shall* be received, * * * as presumptive evidence of the facts therein stated and that the title, estate or interest in the land therein described, which such conveyance purports to convey, of every person whom it purports to affect passed to and vested in the grantee therein at the date thereof or at such previous date as such conveyance purports to fix for that purpose.

SECTION 95. Section 328.07 of the statutes is amended to read:

328.07 CERTIFICATE OF JUDICIAL SALE. Every certificate of sale of land or any estate or interest therein * * * executed by any sheriff, referee, receiver or other person, in pursuance of a sale made by virtue of any judgment, * * * order, license or execution of any court of record * * * in this state, and * * * the record thereof, shall be received as presumptive evidence of the facts therein stated.

SECTION 96. Section 328.081 of the statutes is repealed.

SECTION 97. Section 328.09 of the statutes is amended to read:

328.09 VITAL STATISTICS. (1) RECORD OF BIRTHS, DEATHS AND MARRIAGES. The record of any marriage, birth or death * * * kept in the office of any register of deeds or * * * in the *state bureau of vital statistics* * * * shall be received as presumptive evidence of the marriage, birth or death so recorded.

(2) CHURCH AND DOCTOR'S RECORDS. Any church, parish or baptismal record, and any record of a physician or a person authorized to solemnize marriages, in which record are preserved the facts relating to any birth, marriage or death, including the names of the persons, dates, places and other material facts, may be admitted as prima facie evidence of any fact aforesaid. But such record must be produced by * * * its proper *custodian* * * * and * * * be supported by * * * *his oath* * * * that it is such a record as it purports to be and is genuine to the best of his knowledge and belief.

(3) * * * CERTIFICATES OF FOREIGN BIRTHS, ETC. Official certificates of births, marriages or deaths, issued in foreign countries in which such births, marriages or deaths have occurred, purporting to be founded on books of record and authenticated by the signature of any United States minister, secretary of legation or other diplomatic officer, or by a consul of the United States accredited to or appointed for the foreign country in which such certificates are issued, shall be received as presumptive evidence of the facts in such certificates stated.

SECTION 98. Section 328.11 of the statutes is amended to read:

328.11 COUNTY RECORDS AS TO TAXATION. (1) All * * *, * books *and files* in the office of any county treasurer or * * * county clerk, all assessments and tax rolls and certificates and warrants thereto attached, all notices required to be published or posted by the county treasurer or county clerk, and the proofs of publication or posting filed in the office of either, pursuant to any law relating to the assessment or collection of taxes or to lands sold for taxes, shall be received as presumptive evidence of the facts therein stated.

(2) A transcript of so much of * * * *said* books, files *and records*, * * * as relates to the assessment or sale for taxes of any * * * parcel of land in any specified year or years, * * * *certified* in substantially the following form:

I hereby certify that the annexed and foregoing is a true and correct transcript of all books, records, papers, files and proceedings of every name and nature on file or of record in my office relating * * * in any wise * * * to the assessment of taxes upon or to the sale for taxes of the following described lands situated in the county of, state of Wisconsin, for the year (or years) A. D., and of the whole thereof. In testimony whereof I have hereunto set my hand this day of, A. D.

County Clerk (or Treasurer) of County. * * * shall be received in evidence with the same effect as the originals * * * and as presumptive evidence of the facts stated in such certificate.

SECTION 99. Section 328.13 of the statutes is repealed.

SECTION 100. Section 328.15 of the statutes is repealed.

SECTION 101. Section 328.19 of the statutes is amended to read:

328.19 PROOF OF PUBLICATION. (1) AFFIDAVIT OF PRINTING. *The affidavit of the editor, publisher, printer or * * * proprietor of any newspaper, * * * or of his foreman or principal clerk, of the publication of any notice or advertisement required to be published * * * by any law of the state, annexed to a copy of such notice or advertisement, clipped from such newspaper, and specifying the time when, and the paper in which it was published, shall be received in all cases as presumptive evidence of such publication and of the facts stated therein.*

(2) TIME OF FILING. * * * *Such affidavit may be filed with the proper officer * * * at any time after the last day of the publication of such notice, unless the filing time is otherwise specified.* * * *

(3) SAME. *The affidavit of publication of * * * any notice of a sale of real property * * * required by law to be published * * * may be filed, at any time within six months after the last day of such publication, with the register of deeds of the county in which the premises * * * are situated.*

* * *

SECTION 102. Section 328.21 of the statutes is amended to read:

328.21 AFFIDAVIT OF NOTICE OF CORPORATE MEETING. Whenever * * * any corporation * * * notice * * * is given, posted or served, an affidavit of the person who gave, posted or served the same, specifying the manner and time of doing so, annexed to a copy of such notice, may be filed with the clerk or secretary of the corporation, * * * and when so filed, the original or *certified* copies thereof, * * * shall be presumptive evidence in all cases * * * of the facts contained in such affidavit.

SECTION 103. Section 328.22 of the statutes is amended to read:

328.22 CERTIFICATE OF INSURANCE ASSESSMENT. Whenever an * * * action is brought * * * by any *mutual insurance company to collect any* assessment, the certificate of the secretary of said company, specifying such assessment, the amount due said company by means thereof, and that notice thereof was given the person liable therefor, shall be received as presumptive evidence of the facts so certified.

SECTION 104. Section 328.23 of the statutes is amended to read:

328.23 COPIES OF INSURANCE BOOKS. *Copies of the entries in* * * * the books of any life or mutual benefit insurance corporation or association engaged in doing business on the level premium or assessment plan, * * * together with statements *verified by the custodian of such books*, showing the number of members insured in or belonging to such corporation or association, and the number of members in each class or grade thereof, and the aggregate amount which would be due from them upon a single assessment, *and* * * * that such * * * copies are true and are taken from the regular books of the corporation or association used and kept for the transaction of its business, and that such books are now in his custody or under his control, shall be received in all * * * proceedings as prima facie evidence of such entries or statements. No officer of any such corporation or association shall be compelled (unless by special order of the court or officer before whom the action or proceeding * * * is * * * *pending*) to produce any books or records thereof; * * * provided, * * * *such* verified * * * *copies* and statements * * * shall be * * * *furnished to* the attorney * * * who *reasonably* requires them, at least six days before

the term of court or time set for the trial or hearing of * * *
the action or proceeding, and that such books and records shall
 be subject to the inspection of any interested party or his attor-
 ney to the extent prescribed by * * * such court or officer.
 * * *

SECTION 105. Section 328.24 of the statutes is revised to read:

328.24 EVIDENCE FROM BANK BOOKS. Whenever any bank or any of its officers shall be subpoenaed to produce its books containing a specified account or other specified entries, such bank may, if it so elects, produce a copy of the specified account or other entries, verified under oath by one of its officers, stating that the books called for are the ordinary books of the bank used in the transaction of its business, that the entries copied were made therein at the dates thereof and in the usual course of business, that there are no interlineations or erasures in or among the items copied, that the books are in the custody or control of the bank, and that he has carefully compared the copy with the books and found it to be a correct copy of the specified account or entries. Such verified copy shall be prima facie evidence of such entries, and, when presented, no officer of the bank shall be compelled to produce the books demanded or attend the trial or hearing, unless specially ordered so to do by the court or officer before whom it is pending; provided, that such books shall be open to the inspection of all parties to the action or proceeding.

SECTION 106. Section 328.25 of the statutes is amended to read:

328.25 PRESUMPTIONS AS TO SIGNATURES. Every written instrument purporting to have been signed or executed by any person shall be proof that it was so signed or executed until *denied by the oath or affidavit of the person by whom it purports to have been so signed or executed* * * * or by * * * a pleading duly verified; but this section shall not extend to instruments purported to have been signed or executed by any person who shall have died previous to the requirements of such proof.

SECTION 107. Section 328.27 of the statutes is amended to read:

328.27 EFFECT OF SEAL. A seal upon an executory instrument * * * shall be received as only presumptive evidence of a sufficient consideration. * * *

SECTION 108. Section 328.28 of the statutes is amended to read:

328.28 AREA OF TOWNS AND COUNTIES. Whenever the * * * total area of towns or counties shall be in question, townships not returned as fractional * * * by the surveys under * * * which the public lands were sold by the United States, shall be held to be six miles square; and townships returned as fractional * * * shall be held to contain the * * * areas shown by such surveys or the plats thereof.

SECTION 109. Section 328.29 of the statutes is amended to read:

328.29 ALLEGATIONS OF COPARTNERSHIP. Whenever in any action *or proceeding a party* * * * shall allege in * * * his pleadings that * * * named persons were partners at any particular time, or that as such partners they used any particular partnership name or style under which business was done, such averments shall be taken to be true unless expressly denied by the affidavit of the opposite party or some one in his behalf or by his pleading duly verified, within the usual time of pleading.

SECTION 110. Section 328.30 of the statutes is amended to read:

328.30 JOINT LIABILITY. In actions *or proceedings* * * * upon *written* contracts * * * alleged to have been executed by * * * the defendants, * * * proof of the joint liability of the defendants shall not be required to entitle the plaintiff to judgment unless such * * * *execution is denied by a verified* answer. * * *

SECTION 111. Section 328.31 of the statutes is amended to read:

328.31 CORPORATE EXISTENCE. In *an action or proceeding* * * * by or against any corporation, it shall not be necessary to prove * * * the existence of such corporation, unless * * * *its existence is specially denied by* * * * an answer, duly verified. * * *

SECTION 112. Section 328.33 of the statutes is amended to read:

328.33 PROOF OF MALICE IN SLANDER AND LIBEL. If the defendant in any action for slander or * * * libel shall set up in his answer that the words spoken or published were

true, such answer * * * shall not * * * be * * * proof of the malice alleged in the complaint.

SECTION 113. Section 328.36 of the statutes is amended to read:

328.36 EVIDENCE OF TITLE TO REALTY. In all criminal *proceedings* * * * in which it is necessary for the state to prove that any person owns or has an interest in any real estate, a conveyance to such person of such real estate or an interest therein, so executed and acknowledged or proved as to be entitled to record, or the record of such conveyance or a certified copy of such record or such proof of possession as would entitle a plaintiff to recover in an action for trespass shall be received * * * as presumptive evidence that such person owned or had an interest in the real estate in question.

SECTION 114. Sections 328.39, 328.40, 328.41 and 328.42 of the statutes are repealed.

SECTION 115. Section 328.43 of the statutes (old sections 4151c to 4151q of the statutes of 1923), relating to destroyed county records, shall not be printed in future editions of the Wisconsin Statutes, but such omission to print shall not effect the force of said sections.

SECTION 116. All sections now contained in chapters 325 to 328 but which are not mentioned or treated in this act shall remain unaffected by this act.

SECTION 117. The session laws enumerated in this section are repealed: Chapter 29 Laws of 1899; chapters 14, 28, 85, 145, 181 and 244 Laws of 1901; chapters 119 and 151 section 2, Laws of 1903; chapters 149, 237 and 477 Laws of 1905; chapters 118, 197, 271, 276, 369 and 455 Laws of 1907; chapters 84, 107 and 219 Laws of 1909; chapters 65, 123, 140, 180, 231, 232, 291, 322, 537, 663 s. 450, 451, 452 and 453 and 664 s. 44 Laws of 1911; chapters 26, 175, 246, 336, 349 and 688 Laws of 1913; chapter 245 Laws of 1915; chapters 101, 282, 306, 433 and 529 Laws of 1917; chapter 239 Laws of 1919; chapters 101, 122, 200, 214 and 390 Laws of 1921.

SECTION 118. This act shall take effect on September 1, 1927.
Approved August 6, 1927.