

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

Approved April 29, 1931.

No. 51, S.]

[Published May 2, 1931.

CHAPTER 79.

AN ACT to amend subsection (1) of section 16.35, subsection (9) of section 27.01, paragraph (c) of subsection (6) of section 27.065, subsection (2) of section 45.19, section 45.277, subsection (2) of section 66.06, paragraph (i) of subsection (5) of section 67.04, subsection (6) of section 67.05, subsection (3) of section 69.29, paragraph (c) of subsection (7) of section 84.02, section 88.40, section 122.10, paragraph (e) of subsection (1) of section 184.05, section 189.21, section 197.06, subsection (5) of section 197.10, section 252.20, subsection (7) of section 262.09, section 278.01, section 293.08, section 311.03, section 316.45, section 316.50, section 324.20, section 330.10, subsection (4) of section 330.19, subsection (1) of section 330.21; to repeal section 5.265, subsection (6) of section 61.41, subsection (11) of section 89.27, section 89.376, subsection (10) of section 98.12, section 260.16, section 330.28; to create subsection (6) of section 330.18; to renumber subsection (15) of section 82.02 to be section 82.07; to restore subsection (4) of section 67.10, withdrawn by Laws 1925, chapter 385, section 7, and to restore and renumber section 192.55, Statutes 1927, withdrawn by Laws 1929, chapter 504, section 120, to be section 192.50, of the statutes, all for the purpose of correcting errors, reconciling conflicts, supplying omissions, and for repealing obsolete and unconstitutional provisions.

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

SECTION 1. Section 5.265 of the statutes is repealed.

SECTION 2. Subsection (1) of section 16.35 of the statutes is amended to read:

(16.35) (1) When any appointing power in any such county learns that vacancy has occurred, or is about to occur in any office or position in the classified service in his department, he shall forthwith notify the chief * * * *examiner* of such fact. When an eligible list (containing the names of persons who have,

within a period of time to be specified in the rules of the * * * bureau of personnel, passed an examination appropriate to the office or position in question) is in existence, the chief examiner shall certify to the appointing power the names of the three persons standing highest on that list. If more than one vacancy in the same class or position is to be filled, one additional name shall be certified for each additional vacancy.

SECTION 3. Subsection (9) of section 27.01 of the statutes is amended to read:

(27.01) (9) **BUTTONS BAY PARK.** The conservation commission is authorized to enter into negotiations for the acquisition by purchase, donation or otherwise of an area of approximately one hundred acres in extent for park and recreational purposes along the east shore of Lake Geneva, at the point commonly known as Buttons Bay, in section 1, township 1, range 17, in the town of Linn, Walworth county.

SECTION 4. Paragraph (c) of subsection (6) of section 27.065 of the statutes is amended to read:

(27.065) (6) (c) Notice shall be given by the county clerk that such report is on file and open for review at his office, and will be so continued for the space of ten days after the date of such notice, and that on a day named therein, which shall not be more than three days after the expiration of said ten days, the county highway commissioner * * * or such committee of the county board as may be appointed by resolution therefor will be present and will hear all objections that may be made to such report.

SECTION 5. Subsection (2) of section 45.19 of the statutes is amended to read:

(45.19) (2) To admission to the * * * *Grand Army Home* at Waupaca.

SECTION 6. Section 45.277 of the statutes is amended to read:

45.277 **HOSPITAL CARE; CHARGE FOR.** The rate of charges for services rendered patients at the Wisconsin general hospital or in the service memorial institutes under * * * subsection * * * (2) section 45.27 of the statutes shall in no case exceed the rate of charges determined by the board of regents for similar care rendered public patients under section 142.07. Members of the medical, surgical and laboratory staffs of the Wisconsin general hospital and the service memorial institutes

shall not receive any special compensation for services rendered such patients.

SECTION 7. Subsection (6) of section 61.41 of the statutes is repealed.

SECTION 8. Subsection (2) of section 66.06 of the statutes is amended to read:

(66.06) (2) LIMITATION. Nothing in this section shall be construed as depriving the railroad commission of any power conferred by sections 195.05, 195.07 * * * and * * * 196.01 to 197.10. * * *

SECTION 9. Paragraph (i) of subsection (5) of section 67.04 of the statutes is amended to read:

(67.04) (5) (i) To purchase or acquire public utilities or street railways when it is deemed necessary or desirable to raise money for either of those purposes in the course of such acquisitions, under sections 193.33 to * * * 193.46, or under chapter 197; * * * but this paragraph shall not be deemed an amendment of any of said sections, nor shall it impair, alter or affect the powers of the railroad commission in any such proceedings.

SECTION 10. Subsection (6) of section 67.05 of the statutes is amended to read:

(67.05) (6) REFERENDUM IN SCHOOL DISTRICTS. Whenever an initial resolution shall have been so adopted by the governing body of any municipality whatsoever other than a county, a town, a city, a village, or a board of park commissioners, the clerk of such municipality shall immediately record the same and call a special meeting for the purpose of submitting the resolution to the electors of the municipality for ratification or rejection. The calling and conduct of such meeting shall be governed by those statutes, so far as applicable, which govern the calling and conduct of special meetings in general * * *. The notice of the meeting, which shall be publicly read before the balloting shall commence, and the ballot used, shall embody a copy of the resolution; the form of the ballot shall correspond, as near as may be, with form "D" annexed to section 6.23; and the question submitted shall be whether the resolution shall be approved.

SECTION 11. Subsection (4) of section 67.10, Statutes 1923, withdrawn by section 7, chapter 385, Laws 1925, is restored to the statutes.

SECTION 12. Subsection (3) of section 69.29 of the statutes is amended to read:

(69.29) (3) The secretary of the state board of health shall, immediately upon hearing of any case of congenital deformity or physical defect, give to the state board of control the name and address of the child and such further information with reference thereto as may be necessary or helpful in carrying out the provisions of * * * section * * * 48.21.

SECTION 13. Subsection (15) of section 82.02 of the statutes is renumbered section 82.07 and paragraphs (a), (b) and (c) are made subsections (1), (2) and (3) thereof.

SECTION 14. Paragraph (c) of subsection (7) of section 84.02 of the statutes is amended to read:

(84.02) (7) (c) In case it is impracticable or impossible to maintain any portion of the trunk system as officially laid out, the commission may temporarily declare an alternate route a portion of the state trunk highway system, and in such case the alternate route shall be considered a portion of the state trunk highway system in every legal and practical respect except that it may not be construed under the provisions of chapter 84. Except as provided in paragraph (b) * * * of this subsection *and paragraph (a) of subsection (3)* * * * the actual mileage of the system as officially laid out shall be the mileage used in computing any amounts due the counties when the state trunk highway mileage is a factor used in the distribution of moneys.

SECTION 15. Section 88.40 of the statutes is amended to read:

88.40 HEARINGS REGARDING CULVERTS, ETC. In case of the failure or refusal of any railroad company to comply with any of the provisions of sections 88.38 and 88.39, the person, firm or corporation or the town, village or city aggrieved thereby may file a complaint with the railroad commission setting forth the facts. The commission shall investigate and determine the matter in controversy, in accordance with the provisions of *chapter 195*, * * * and any order it shall make in said proceeding shall have the same force and effect as an order in any other proceeding properly begun under and by virtue of the provisions of said * * * *chapter*.

SECTION 16. Subsection (11) of section 89.27 of the statutes is repealed.

SECTION 17. Section 89.376 of the statutes is repealed.

SECTION 18. Subsection (10) of section 98.12 of the statutes is repealed.

SECTION 19. Section 122.10 of the statutes is amended to read:

122.10 FILING. The filing officer shall mark upon the contracts or copies filed with him the day and hour of filing and shall file one of the contracts or copies in his office for public inspection. He shall send the other contract or copy to the clerk of the city, village or town in which the * * * *buyer* resides with one-half of the fee collected by him for such filing. He shall keep a separate book in which he shall enter the names of the seller and buyer, the date of the contract, the day and hour of filing, a brief description of the goods, the price named in the contract and the date of cancellation thereof; except that in entering the contracts mentioned in section 122.08 the secretary of state shall record either the sum remaining to be paid upon the contract or the price of the goods. Such book shall be indexed under the names of both seller and buyer. For filing and entering such contract or copy the filing officer shall be entitled to a fee of twenty-five cents, except that in cities of the first class the filing officer shall be entitled to a fee of thirty-five cents and except that for filing and entering a contract described in section 122.08 the secretary of state shall be entitled to a fee of one dollar.

SECTION 20. Paragraph (e) of subsection (1) of section 184.05 is amended to read:

(184.05) (1) (e) In case of railroad corporations for any of the purposes stated in * * * subsection * * * (9) of section * * * 190.02.

SECTION 21. Section 189.21 of the statutes is amended to read:

189.21 APPEAL FROM COMMISSION. Every person aggrieved by any order, decision, permit or other official act of the commission may appeal therefrom to the circuit court of Dane county, in the manner and subject to the limitations prescribed by sections 196.41 to 196.43. * * *

SECTION 22. Section 192.55, Statutes of 1927, withdrawn from the statutes by section 120, chapter 504, Laws 1929, is restored to the statutes and renumbered 192.50.

SECTION 23. Section 197.06 of the statutes is amended to read:
197.06 COURT REVIEW OF ORDER OF COMMISSION. Any public utility or the municipality or any bondholder, mortgagee, lienor or other creditor of the public utility, being dissatisfied with such order, may prosecute an action to alter or amend such order or any part thereof, as provided in sections 196.41 to * * * 196.48.

SECTION 24. Subsection (5) of section 197.10 of the statutes is amended to read:

(197.10) (5) Nothing in this section shall operate to deprive the railroad commission of its jurisdiction over service, rates and other matters as provided in *chapter 195, 196 and 197*, * * * outside of the limits of said city of the first class. If any complaint or investigation before the railroad commission as to service, rates or other matters arising outside of any such city necessarily shall involve any contract authorized in subsection (1) of this section, or any specifications, rules, regulations or acts in its conduct or administration such city shall be made a party to such proceeding and to the extent that such contract or its administration shall be determined by the commission to be unreasonable or unjustly discriminatory as regards any person or municipality outside of such city, the same shall be changed to conform to the rates, service or regulations provided by said commission outside of such city.

SECTION 25. Section 252.20 of the statutes is amended to read:
252.20 TRANSCRIPTS. Every reporter shall, upon the request of a party to any action, transcribe in longhand or typewriting, the evidence or any other proceedings taken by him in such action or any part thereof so requested, and make, when requested, any number from one to four carbon copies, each duly certified by him to be a correct transcript thereof, for which he shall be entitled to receive from the party requesting the same ten cents per folio for single transcript and two and one-half cents per folio for each carbon copy. In the trial of any criminal action or proceeding the court may, in its discretion, and, in case of commitment to any state penal or reformatory institution, or to a house of correction in counties having and maintaining same, shall order such transcript of the evidence and proceedings to be made and certified by the reporter and filed with the clerk of the court, and a certified duplicate of such transcript to be filed with the

warden or superintendent of the institution to which the person may be sentenced, and the cost thereof, not exceeding ten cents per folio for the original transcript and two and one-half cents per folio for the duplicate, shall be certified and paid by the county treasurer upon the certificate of the clerk of the court. In case of application for a pardon or commutation of sentence said duplicate transcript shall accompany the application. * * * In all actions in which any circuit court shall order a compulsory reference the court may direct the reporter thereof to attend the trial of such action, take the evidence and proceedings therein and furnish the referee or referees with a transcript thereof in longhand or typewriting, when the court shall so order. Such reporter shall receive the same fees for such transcript of testimony, paid in the same manner as hereinbefore provided.

SECTION 26. Section 260.16 of the statutes is repealed.

SECTION 27. Subsection (7) of section 262.09 of the statutes is amended to read:

(262.09) (7) If against a railroad corporation whose general office is or all whose aforesaid officers shall reside or be without the state, to any station, freight, ticket or other agent thereof within the state. * * *

SECTION 28. Section 278.01 of the statutes is amended to read:

278.01 FORECLOSURE JUDGMENT. In actions for the foreclosure of mortgages upon real estate, if the plaintiff recover, the court shall render judgment of foreclosure and sale, as hereinafter provided, of the mortgaged premises or such part thereof as may be sufficient to pay the amount adjudged to be due upon the mortgage and obligation secured thereby, with costs. *But such judgment shall not be entered until twenty days after the lis pendens has been filed.*

SECTION 29. Section 293.08 of the statutes is amended to read:

293.08 WRITS OF PROHIBITION, HOW ISSUED. Writs of prohibition * * * issued out of the supreme court * * * shall be applied for upon relation or affidavits filed in the same manner as for writs of mandamus; and if the cause shown shall appear to the court to be sufficient a writ shall be thereupon issued, which shall command the court and party to whom it shall be directed to desist and refrain from any further proceedings in the action or matter specified therein until a day therein named

to be fixed by the court and the further order of such court thereon; and then to show cause why they should not be absolutely restrained from any further proceedings in such action or matter.

SECTION 30. Section 311.03 of the statutes is amended to read:

311.03 NOTICE OF APPLICATION FOR APPOINTMENT. When application shall be made to any county court for the appointment of an administrator on an intestate estate or for letters of administration with the will annexed such court shall appoint a time and place for hearing such application, and shall cause notice thereof to be given, by personal service on all persons interested, at least ten days before the day designated or by publication in a newspaper as provided in section 324.20, at least three weeks successively, previous to the time appointed. * * *

SECTION 31. Section 316.45 of the statutes is amended to read:

316.45 ACTION TO RECOVER ESTATE SOLD, WHEN BARRED. No action for the recovery of any estate sold by an executor or administrator under the provisions of this chapter shall be maintained by any heir or other person claiming under the deceased testator or intestate unless it be commenced within five years next after the sale; and no action for the recovery of any estate sold by a guardian * * * shall be maintained by the ward or by any person claiming under him unless it be commenced within five years next after the termination of the guardianship, excepting only that minors and others under legal disability to sue at the time when the cause of action shall accrue may commence their action at any time within five years next after the removal of the disability.

SECTION 32. Section 316.50 of the statutes is amended to read:

316.50 LIABILITY FOR FRAUD. Any executor, administrator or guardian who shall fraudulently sell any real estate of his testator, intestate or ward, contrary to the provisions of law, * * * shall be liable in double the value of the land sold as damages, to be recovered in an action by any person having an inheritance therein.

SECTION 33. Section 324.20 of the statutes is amended to read:

324.20 WHAT NEWSPAPERS MAY PUBLISH NOTICES. All notices required to be given by the county courts by publication in a newspaper, shall be published in such newspaper as the attorney, executor, administrator, guardian or parties interested,

may designate, if such newspaper is published in the county in which the court is held; such notices shall be printed in the English language, but may be published in a newspaper printed in any other language when designated as aforesaid, if in the opinion of the county judge or county court, it shall be more likely to give notice to the interested persons. If no newspaper is published therein, the publication may be made in any such newspaper published in this state as the county judge or county court shall direct or order; if the time of publication is not fixed by law, such judge or court may direct, in the order of publication, the time during which the notice shall be published; provided, that notices published under the provisions of section * * * 316.18 * * * shall be in a newspaper published in the county where the land is situated, if there be a newspaper published in such county, and if there be none so published, then in such newspaper as the court or judge shall direct; and provided further that no county judge or register in probate shall order the publication of any such notice to be published in any newspaper owned or controlled by him or in which he has any pecuniary interest, if there be any other newspaper published in the county of which he is such judge or register. Any county judge, register in probate or other officer of any court, who shall neglect or refuse to carry out or violate any provisions of this section, shall forfeit not less than fifty dollars for each such neglect, refusal or violation.

SECTION 34. Section 330.10 of the statutes is amended to read:
 330.10 ACTION BARRED BY ADVERSE POSSESSION, WHEN. An adverse possession of ten years under sections 330.06 and 330.07 or of twenty years under sections 330.08 and 330.09 shall constitute a bar to an action for the recovery of such real estate so held adversely or of the possession thereof. *But no person can obtain a title to real property belonging to the state by adverse possession, prescription or user unless such adverse possession, prescription or user shall have been continued uninterruptedly for more than forty years.*

SECTION 35. A new subsection is added to section 330.18 of the statutes to be numbered and to read:

(330.18). (6) Any action in favor of the state when no other limitation is prescribed in this chapter. No cause of action in favor of the state for relief on the ground of fraud shall be deemed

to have accrued until discovery on the part of the state of the facts constituting the fraud.

SECTION 36. Subsection (4) of section 330.19 of the statutes is amended to read:

(330.19) (4) An action upon a liability created by statute, * * * when a different limitation is not prescribed by law.

SECTION 37. Subsection (1) of section 330.21 of the statutes is amended to read:

(330.21) (1) An action *by a private party* upon a statute penalty or forfeiture when the action is given to the party prosecuting therefor and the state, * * * except when the statute imposing it provides a different limitation.

SECTION 38. Section 330.28 of the statutes is repealed.

SECTION 39. This act shall take effect upon passage and publication.

Approved April 30, 1931.

No. 182, A.]

[Published May 2, 1931.

CHAPTER 80.

AN ACT to renumber subsection (3) of section 142.03 to be subsection (4) of said section and the first paragraph and subsections (1), (2) and (3) of section 142.08 to be respectively subsections (1), (2), (3) and (4) of said section; to amend sections 142.01, 142.02, subsection (2) of section 142.03, sections 142.04, 142.05 and 142.06 and, as renumbered, subsection (1) of section 142.08; and to create subsection (3) of section 142.03 and subsection (5) of section 142.08 of the statutes, relating to the treatment of crippled or ailing persons.

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

SECTION 1. Subsection (3) of section 142.03 is renumbered to be subsection (4) of said section and the first paragraph and subsections (1), (2) and (3) of section 142.08 of the statutes are renumbered to be respectively subsections (1), (2), (3) and (4) of said section.

SECTION 2. Sections 142.01, 142.02, subsection (2) of section 142.03, sections 142.04, 142.05 and 142.06 and, as renumbered, subsection (1) of section 142.08 of the statutes are amended to read: 142.01 A person having a legal settlement in any county in this