

No. 413, S.] [Published August 24, 1897.

## CHAPTER 380.

AN ACT to provide for the immediate taking effect of certain sections of the statutes of 1898 as reported by the revisors and the joint committee on revision, and to amend chapter 288, laws of 1897, relating to the establishment of garbage reducing works, by the cities therein named, and the issuing of bonds therefor.

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

SECTION 1. The following sections of the statutes of 1898 as reported by the revisors and by the joint committee on revision are hereby designated for immediate publication, and the same shall be published in the official paper, and included in the volume of session laws of 1897 by the secretary of state by the section, subdivisions and parts of sections mentioned in section 2 of this act. This act shall be numbered as one of the chapters of the laws of 1897; and upon the taking effect of the statutes of 1898, the said sections, subdivisions and parts of sections herein included in section 2 hereof shall have no further effect and from that time shall cease and be inoperative.

Publication of revising act in official paper and session laws of 1897.

SECTION 2. The following sections and parts of sections of the annotated statutes shall be so amended as to read as follows: subdivision 5 of section 163. To prepare, whenever requested by the head of any such department, proper drafts of forms, for contracts and other writings which may be wanted for the use of the state; and to report to the legislature, or either branch thereof, whenever requested, upon any business pertaining to the duties of his office. Also to advise the state treasury agent relative to the

Attorney General, duties of.

discharge of his duties, and whenever said treasury agent shall deem it necessary he shall assist in actions brought for the collection of forfeitures provided for by section 1576.

Board of Regents of university to make report.

SECTION 383. At the close of each biennial fiscal term the regents, through their president, shall make a report in detail to the governor, and the legislature, exhibiting the progress, condition and wants of each of the colleges embraced in the university, the course of study in each, the number of instructors and students, the amount of receipts and disbursements, together with the nature, cost and results of all important investigations and experiments, and such other information as they may deem important, one copy of which shall be transmitted free, by the secretary of state, to all colleges endowed under the provisions of the act of congress entitled "an act donating land to the several states and territories, which provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862; and also one copy to the secretary of the interior as provided in said act. The board shall also report to the governor, as often as may seem desirable, the important results of investigations conducted by the director of Washburn observatory and by other investigators connected with the university, and also the results of such experiments therein relating to agriculture or the mechanic arts as said board may deem to be of special value to the agricultural and mechanical interests of the state. With the approval of the governor, such number of copies as he shall direct, and of the Washburn observatory reports not more than seven hundred copies may be printed by the state printer, in separate form, on good paper and with such appropriate quality of binding as the commissioners of public printing shall order. Eight hundred copies of each of said reports when so directed by the governor, except those of the Washburn observatory, shall be delivered to the legislature, and the remainder be used in exchange for the pub-

Publication of regents' reports, how made.

lications of other institutions, and for such other public purposes as the regents may order.

SECTION 383a. No claim or account against the board of regents of the university shall be paid unless it state the nature and particulars of the services rendered or materials furnished, and be verified by the affidavit of the claimant or his agent and approved by an endorsement in writing thereon by the officer, member or committee of said board authorized thereby to certify claims and accounts for payment.

Claims against board must be verified.

SECTION 392a. The board of regents may maintain the summer school of science, literature, language and pedagogy heretofore established in connection with the university; provided, that all teachers employed therein shall be designated by the state superintendent and the president of the university.

Board may maintain summer school.

SECTION 401. All payments for the erection, repairs or enlargement of any normal school building, or for fixtures or furniture therefor, and all disbursements from the normal school fund income, including the expenses of board of visitors of normal schools and of teachers' institutes, shall be made by the treasurer of said board on the warrant of its secretary, countersigned by its president, and drawn in accordance with the directions of the board, after being audited and allowed pursuant to its rules and regulations, and not otherwise; and in case of a donation no such warrant shall be issued for any part thereof until the sums donated and subscribed shall have been paid into the state treasury, nor in any case until the work shall be done, the services rendered, buildings erected or fixtures or furniture purchased under the direction of said board, and pursuant to a contract made with it. All claims and accounts, before being paid by or under the authority of such board, shall be verified and approved in the same manner as claims against the state university are required to be verified and approved.

Disbursements for normal schools, how paid.

Annual school district meeting, when held.

**SECTION 425.** The annual district meeting shall be held on the first Monday of July unless that be a legal holiday, in which case it shall be held on the next day, at seven o'clock in the afternoon unless another hour be fixed by a vote recorded at the last annual meeting. It shall be the duty of the district board to meet on the Saturday immediately preceding the annual meeting, carefully examine the accounts of the treasurer, and make up a full and itemized report of all receipts and expenditures since the last annual meeting; of the amount in the hands of the treasurer, or the amount of the deficit for which the district is liable; of the amount necessary to be raised by taxes for the support of the school for the ensuing year; and of the amount required to pay the interest or principal of any debt due or to become due during such year; which report shall be submitted in writing at the annual meeting and recorded by the clerk at length with the action thereon in the proceedings of the meeting.

Board to examine accounts.

Powers of school board, imposed by statutes.

**SECTION 515.** Every such board or other body aforesaid shall have all the powers, and be charged with all the duties imposed by these statutes on school district boards, so far as the same are not provided for or limited by the special provisions of the act of incorporation, or other act under which such board or body is constituted. Every city or village not having a system of school government especially provided by law therefor, shall be governed by the provisions of this chapter.

Court may appoint acting district attorney, when.

**SECTION 750.** When there shall be no district attorney for the county, or he shall be absent from the court, or shall have acted as counsel or attorney for a party accused in relation to the matter of which stands charged, and for which he is to be tried, or is near of kin to the party to be tried, on a criminal charge, or unable to attend to his duties, the circuit court may by an order to be entered in the minutes, stating the cause therefor, appoint

some suitable person to perform, for the time being, or for the trial of such accused person, the duties of such district attorney; and the person so appointed shall have all the powers of the district attorney while so acting. Such courts may, in the same manner, and in their discretion, appoint counsel to assist district attorneys in the prosecution of persons charged with crime punishable by imprisonment in the state prison. Such counsel shall be paid from the county treasury on the certificate of the judge stating the compensation to which he is entitled in the manner provided by law for the payment of counsel for indigent criminals. When there shall be an unusual amount of civil litigation to which the county is a party or in which it is interested, the county board may appoint an attorney or attorneys to assist the district attorney therein, and fix his or their compensation.

Compensation,  
how paid.

SECTION 1038. The following subdivisions of said section of the annotated statutes are amended to read as follows:

Property ex-  
empt from  
taxation.

2. That owned exclusively by any county, city, village, town or school district, including lands possessed, managed and controlled exclusively for the public use as park lands or grounds by any city or village; but lands purchased by counties at tax sales shall be exempt only in the cases provided in section eleven hundred and ninety-one.

7. Lands used exclusively as public burial grounds, and tombs and monuments to the dead therein; also all property held by donation, bequest or in trust for cemetery associations under the provisions of section 1447.

Cemeteries.

9. Stock in any corporation in this state which is required to pay taxes upon its property in the same manner as individuals.

Certain stock  
in corpora-  
tions.

11. Wearing apparel, family portraits, private libraries, not exceeding in value two hundred dollars, kitchen and other household fur-

Wearing ap-  
parel.

niture, not exceeding in value two hundred dollars, and also growing crops.

Depot grounds and track, except for special assessments.

14. The track, right of way, depot grounds and buildings, machine shops, rolling stock, and all other property necessarily used in operating any railroad in this state belonging to any railroad company including pontoon or pile and pontoon railroads, and they shall henceforth remain exempt from taxation for any purpose, except that the same shall be subject to special assessments for local improvements in cities and villages; and all lands owned or claimed by any such railroad company, not adjoining its track, shall be subject to all taxes. The provisions of this subdivision shall apply to every person, company or corporation engaged in the operation, management and maintenance of a street railway operated by mechanical power only, and to any such person, company or corporation engaged in the manufacture or furnishing of electric light or power, whether exclusively engaged therein or operating a plant or works separate from other works which are not within this exemption; provided, he or it shall pay a license fee upon gross earnings, under the provisions of sections 1222c, 1222d, 1222e, 1222f, 1222g, 1222h, 1222i, and 1222j, or a like statute requiring such a fee upon gross earnings, in which case all personal property, franchises and real estate owned and actually and necessarily used by such person, company or corporation in the operation of its business, shall be exempt from taxation and other license fees; but nothing contained in this subdivision shall be construed to conflict with or in any wise affect the validity or force of section 959<sup>38</sup>.

Applies to operators of street railways.

NOTE. — Whenever in any city a special assessment against property shall have been duly ordered and made, and any such property shall be owned or operated by or on behalf of any corporation doing business in this state, a certified statement of the amount of such assessment, and of the time when ordered, may be signed by the city clerk and certified by him under the seal of the city as having been duly and legally made, and upon the filing of such certificate in the office of the clerk of the circuit court of the county in which such property is located, the same shall be a lien upon the property of any such corporation in such county, and may be foreclosed by action in such court in the same manner as

liens of mechanics and others upon real property may be foreclosed therein. The certified statement of such lien so filed, signed and sealed shall be prima facie evidence of the legality and correctness of all prior proceedings in the matter of such assessment and of the legality and validity of such assessment.—Section 959<sup>3</sup>, chapter 380, laws of 1897, which goes into effect Sept. 1, 1898.

17. All property of any corporation or association formed under the laws of this state for the encouragement of industry by agricultural and industrial fairs and exhibitions, which shall be necessary for fair grounds, while used exclusively for such fairs and exhibitions; provided, the quantity of land so exempt shall not exceed eighty acres, and that such corporations or associations may permit such fair grounds to be used for celebrations or as places of amusement.

Agricultural and industrial fairs, exempt.

20. The real and personal property of every corporation formed under section 1786a for the care, treatment or relief of insane or feeble-minded persons, and used exclusively for such purposes, shall be exempt from taxation so long as the same shall continue to be so used, provided, that preference shall be given to the admission of residents of this state as patients therein.

Corporations for insane or feeble minded persons.

21. The armory owned by any regiment, battalion or company of the Wisconsin national guard and used for military purposes by such organization; but such property shall be subject to local assessments for the improvement of streets or sidewalks, or for the construction and repair of sewers or drains.

Armories.

24. The capital stock, installments paid in and securities taken for moneys advanced to its own members, of any mutual savings fund or loan and building association organized under the laws of this state.

Building and Loan Assn's.

27. The property of all telephone companies, and of persons or associations engaged in the business of transmitting messages by telephone, or the renting, letting or keeping of telephones, wires or batteries for that purpose, except real estate not connected with or used in carrying on their business.

Telephone companies.

28. The capital stock of mutual co-operative corporations organized under chapter 86.

Wide tired  
wagons.

29. All wagons having tires at least three inches wide, used by any farmer in his vocation as such; and all wide-gauge sleighs, measuring four feet and six inches from center to center of runners, and employed by any person for his own use.

30. The real estate of the Milwaukee Medical College, described in chapter 292 of the laws of 1895.

31. All the property of trust or annuity corporations organized under chapter 86, except real estate owned by them.

32. All the property of corporations organized under chapter 86 for the guaranty of title.

33. All the real and personal property of the Milwaukee orphan asylum.

Beet sugar fac-  
tories, for cer-  
tain time.

34. All factories or plants for the manufacture and refining of beet sugar, and all property, real or personal, used in connection therewith and necessary to the prosecution of the business thereof for five years from the second day of April, 1897, except that such real property shall be subject to special assessments for local improvements in cities and villages.

35. All the property of every kind actually used in operating any plank or toll road.

Duties of as-  
sessors.

Section 1050. Every assessor shall ascertain and set down in separate columns prepared for that purpose on the assessment roll and opposite to the names of all persons assessed for personal property, the number and value of the following-named items of personal property assessed to such person, and which shall constitute the assessed valuation of the several items of property therein described, to-wit:

1. The number and value of horses of all ages.

2. The number and value of neat cattle of all ages.

3. The number and value of mules and asses of all ages.



4. The number and value of sheep and lambs.
5. The number and value of swine.
6. The number and value of wagons, carriages and sleighs.
7. The number and value of gold and silver watches.
8. The number and value of pianos, organs and melodeons.
9. The value of bank stock.
10. The value of merchants' and manufacturers' stock.
11. Amount of moneys, accounts, bonds, credits, notes and mortgages.
12. The value of leaf tobacco.
13. The value of logs, timber, lumber, ties, poles and posts, not manufacturers' stock.
14. Number and value of steam and other vessels.
15. Value of real and personal property and franchises of water and light companies.
16. Number and value of all bicycles.
17. Value of all other personal property except such as is exempt from taxation.
18. The total value of all personal property.

Section 1051. Upon the demand of the assessor, the president, cashier or other officer in charge of any incorporated bank shall make out and deliver to such assessor annually, before the first day of June, a statement showing the name and residence of each stockholder therein on the first day of May preceding, and the amount of stock owned or held by him on that day. And the assessor shall assess said bank stock as other taxable property in his assessment district.

Banks to give names of stockholders.

Section 1066. Upon the correction and completion of the assessment roll, as provided in the preceding section,\* the said clerks shall ascertain and, on or before the fourth Monday in August, transmit to the county clerk a de-

Statements to be sent to county clerks.

\*NOTE.—Section 1065 of said statutes is amended by adding at the end thereof the words "city or village."—Section 1065, chapter 380, laws of 1897, which goes into effect Sept. 1, 1898.

tailed statement of the aggregate of each of the several items specified in section one thousand and fifty, and the valuation of bank stock, with a statement of the number of acres of land and the aggregate value thereof, and the aggregate value of all city and village lots as appears from the assessment roll. Every county clerk shall, at the expense of the county, annually procure and furnish to each town, city and village clerk, blanks for such statements, which blanks shall be in the following form:

STATEMENT.

required by section 1066 of the statutes of 1898, showing the aggregate number and value of the several items of personal and real property appearing upon the assessment rolls of the — of —, in the county of —, state of Wisconsin.

Statement.

Description of Property.	Aggregate number.	Aggregate value.
1. Horses of all ages .....		\$.....
2. Neat cattle of all ages .....		.....
3. Mules and asses of all ages .....		.....
4. Sheep and lambs .....		.....
5. Swine .....		.....
6. Wagons, carriages and sleighs .....		.....
7. Gold and silver watches .....		.....
8. Pianos, organs and melodeons .....		.....
9. Value of bank stock .....		.....
10. Value of merchants' and manufacturers' stock .....		.....
11. Amount of moneys, accounts, bonds, credits, notes and mortgages .....		.....
12. Value of leaf tobacco .....		.....
13. Value of logs, timber, lumber, ties, poles and posts, not manufacturers' stock .....		.....
14. Value of steam and other vessels .....		.....
15. Value of real and personal property and franchises of water and light companies .....		.....
16. Number and value of all bicycles .....		.....
17. Value of all other personal property .....		.....
18. Total value of all personal property .....		\$.....
19. Number of acres of land and value thereof .....		\$.....
20. Aggregate value of city and village lots .....		.....
21. Total value of real estate .....		\$.....

—, Wis., —, 18—.

I hereby certify the foregoing statement to be correct, as appears from the assessment rolls above referred to, which are now on file in this office.

— — —,  
—, Clerk.

Section 1580. The treasury agent or his assistant may appoint special treasury agents, who, as well as said agent and his assistant may, when there is reasonable ground to suppose that such license fees as are required by any law to be paid into the state treasury may become otherwise uncollectible, seize and detain any vehicle, or any animals attached thereto, or any of the goods, wares or merchandise conveyed thereby, or any trunk, box or pack, or any of the contents therein contained, carried by foot peddlers, until the process provided by law can be issued and served. Such agent, assistant and special agents may serve any writ or process necessary to enforce provisions of this chapter in the same manner and for the same compensation as constables and sheriffs

Treasury agent may appoint special agents, when.

Section 1772. In order to form such a corporation, the persons desiring so to do shall make, sign and acknowledge written articles containing.

Formation of corporations, how accomplished.

1. A declaration that they associate for the purpose of forming a corporation under these statutes, and of the business or purposes thereof.

2. The name and location of such corporation; but such name shall not contain the names of individuals in the manner in which they are ordinarily used in partnership or business names; no corporate name shall be held illegal because of the omission of the word "limited."

3. The capital stock, if any; the number of shares, and the amount of each share.

4. The designation of general officers and

the number of directors, which shall not be less than three; and the directors may be required to be classified into three classes, so that one-third shall hold their offices for one year, one-third for two, and one-third for three years; in which case all directors elected subsequent to the first shall hold their offices for three years, except when elected or appointed to fill vacancies.

5. The principal duties of the several general officers respectively.

6. The method and conditions upon which members shall be accepted, discharged or expelled; and in stock corporations, persons holding stock, according to the regulations of the corporation, and they only, shall be members.

7. Such other provisions or articles, if any, not inconsistent with law, as they may deem proper to be therein inserted for the interests of such corporation, or the accomplishment of the purposes thereof, including, if desired, the duration of its existence. In case the corporation is formed without capital stock, the articles shall fix the time and place for the first meeting for the election of officers, and the signers of such articles shall give notice thereof to the members in the manner provided in the next section. Such original articles, or a true copy thereof, verified as such by the affidavits of two of the signers thereof, shall be recorded by the register of deeds of the county in which such corporation is located; and no corporation shall, until such articles be so left for record, have legal existence. A like verified copy and a certificate of the register showing the date when such articles were left for record shall, within thirty days, be filed with the secretary of state and for a failure so to do, each signer of such articles shall forfeit twenty-five dollars. For filing the articles of incorporation of corporations for the manufacture of beet sugar, or of butter, cheese or other dairy products there shall be paid the

When formed  
without capi-  
tal stock.

Fees for filing  
articles of in-  
corporation.

secretary of state ten dollars, and for filing an amendment to such articles five dollars; for filing in his office the articles of any other corporation, except as is otherwise specifically provided in these statutes, the incorporators shall pay twenty-five dollars if the capital stock of the corporation is fixed therein at twenty-five thousand dollars or less, and one dollar for each additional one thousand dollars of capital stock; and every corporation organized and doing business under the laws of this state which may hereafter increase its capital stock, shall pay as a fee therefor fifty cents for each one thousand dollars of increase, and, except as above provided, for filing any amendment to its articles, other than for the purpose of increasing its capital stock, shall pay ten dollars; provided, that no fee shall be required from any corporation organized without capital stock or organized exclusively for educational, benevolent, charitable or reformatory purposes, the articles of which provide that no dividend or pecuniary profits shall be declared to the members thereof.

Fees for increasing capital stock.

SECTION 1795 of the annotated statutes is hereby amended by striking out the words "second Monday in each alternate," in the sixth line from the end thereof and inserting in lieu thereof the words "first Monday in December in each odd numbered;" also by striking out the last two lines thereof. Also by adding at the end thereof the following: All railroad corporations hereafter organized shall within ten days after beginning operations as common carriers give notice in writing to the commissioner of the name of the company, date of beginning its business as a carrier, names of terminals, and the names and residences of the principal officers. For a failure thereof any such corporation shall incur the forfeiture in this section mentioned.

Railroad companies to report.

SECTION 1795a. There shall be published biennially, under the supervision of the railroad commissioner, twenty-five thousand copies of

Publication of railroad maps.

the railroad map of Wisconsin, of which eight thousand shall be mounted on muslin and provided with rollers, to be distributed by the state superintendent among the schools; twelve thousand three hundred and thirty shall be likewise mounted on muslin and provided with rollers, to be apportioned and delivered to the members of the legislature; four thousand six hundred and seventy, of which three thousand shall be unmounted and one thousand six hundred and seventy likewise mounted on muslin and provided with rollers, to be distributed by the railroad commissioner.

Life or accident insurance companies, how formed.

SECTION 1947. Any number of residents of this state, not less than nine, may form a corporation for granting life or accident insurance by complying with section 1897. No life insurance corporation whatever shall do any business in this state, nor shall any person act as agent or otherwise within this state, in receiving or procuring applications for life insurance, or in any manner aid in transacting such business for any such corporation, unless it shall have a guaranty capital paid in, in money, of at least one hundred thousand dollars and invested as hereinafter provided, or actual assets to the like amount invested in stocks or bonds of the United States or of this state, estimated at their market value, or in such other stocks or securities as may be approved by the commissioner of insurance, or in mortgages, being first liens upon real estate worth at least twice the amount of money loaned thereon, with abstract showing a good and sufficient title, and the affidavits of two respectable freeholders to the value of such property; nor until it shall have first procured a license from said commissioner, authorizing it to issue policies of insurance in this state, and have paid therefor the license fee required to be paid by section one thousand two hundred and twenty; provided, that

Conditions upon which they may do business.

in case any such life insurance corporation organized under the laws of any other state or country, having procured license as herein provided, shall remove or make application to remove into any court of the United States, any action or proceeding begun in any court of this state upon a claim or cause of action arising out of any business or transaction done in this state, it shall be and is hereby made the imperative duty of the commissioner to revoke any and every authority, license or certificate granted to such corporation or any agent thereof, to transact any business in this state, and no such corporation or agent thereof shall thereafter transact any business of insurance in this state till again duly authorized, and no renewal, license or certificate of authority shall be granted to such corporation for three years after such revocation; and provided, further, that if the license of any such corporation shall be revoked as aforesaid, the attorney last appointed and the agents last designated as acting as such for it, shall continue attorney and agent for the purpose of serving process for beginning actions upon any policy or liability incurred or contracted in this state, while it transacted business therein, so long as any such liability shall exist.

License to be  
revoked, when.

**NOTE.**—If such conveyance shall be executed in any other state, territory or district of the United States, it may be executed in the manner prescribed in section 2218 and acknowledged in the form prescribed in the next preceding section, or executed and acknowledged according to the laws of such state, territory or district; and the execution thereof may be acknowledged before and certified to by any judge or clerk of a court of record, notary public, justice of the peace, master in chancery or other officer authorized by the laws of such state, territory or district to take acknowledgments of deeds therein, or before any commissioner appointed by the governor of this state for such purpose; and if executed within the jurisdiction of any military post of the United States, not within this state, it may be acknowledged before and certified to by the commanding officer thereof. — Section 2218, chapter 380, laws of 1897, which goes into effect, Sept. 1, 1898.

Note: See  
section 2219.

**SECTION 2219.** In the cases provided for in the next preceding section, unless the acknowledgment be taken before a commissioner appointed by the governor of this state for that purpose, a clerk of a court of record, with its seal attached, a notary public with his seal at-

Foreign ac-  
knowledg-  
ments, how  
authenticated.

tached, or the commanding officer of a military post, such conveyance shall have attached thereto a certificate of the clerk, or other proper certifying officer of a court of record of the county or district within which such acknowledgment was taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such person subscribed thereto to be genuine, and if such deed be executed and acknowledged according to the laws of such state territory or district, such certificate shall state that fact. If any such deed, the acknowledgment of which shall be taken by any such commissioner, clerk of a court of record, notary public or commanding officer of a military post, shall be executed and acknowledged according to the laws of such state, territory or district, the certificate of acknowledgment may certify that fact in lieu of other proof thereof.

So much of section 2424 as relates to the seventh and ninth circuits shall read as follows:

The terms of court in the seventh circuit shall be as follows:

Terms of court  
in seventh cir-  
cuit.

Seventh circuit. In the county of Adams on the second Tuesday in June and the third Tuesday in December; in the county of Portage on the fourth Monday in March and the third Monday in November; in the county of Waupaca on the first Monday in March and the fourth Monday in October; in the county of Waushara on the last Tuesday in April and the third Tuesday in September; in the county of Wood on the second Monday in May and the first Monday in October.

The terms of court in the ninth circuit shall be as follows:

Terms of court  
in ninth cir-  
cuit.

Ninth circuit. In the county of Columbia on the second Tuesday in May and the first Tuesday in December; in the county of Dane on the second Monday in January, the Monday



after the first Tuesday in April, the fourth Monday in June and the third Monday in September, but no jury shall be summoned for the term in June; in the county of Marquette on the first Tuesday in June and the Tuesday after the third Monday in November; in the county of Sauk on the second Tuesday in March and the third Tuesday in October.

SECTION 2625. The court shall change the place of trial of any action upon the application of any party thereto, who shall file his affidavit that he has good reason to, and does, believe that he cannot have a fair trial of such action on account of the prejudice of the judge, naming him, or in lieu of granting such application, such judge may, in his discretion, retain such action in the same court, without entering an order changing the place of trial, until the last day of the then current term, if the application is made at a term at which the action is triable, or the next term if it is made in vacation; and in the meantime shall call upon some other circuit judge or judges to attend and hold court during such current or next term for the purpose of exercising jurisdiction in all actions in which applications for a change of the place of trial have been made for such reason. And while so in attendance said judge may make all orders and hear all applications and motions that may be brought on hearing, during the time he shall so attend. If such other judge or judges (as may be necessary or convenient) can so attend and hold court for such purpose at either such terms, the same shall be done with the same effect as if a change of venue to another circuit and a trial of such action had been had therein, but if no such judge shall so attend an order for a change of the place of trial shall be entered in each action wherein proper application has been made, on the last day of such term, and thereupon such change shall be made. If such application shall be made after any continuance in the action obtained by the

Change in  
place of trial,  
when.

Judge of an-  
other circuit  
called.

party filing such affidavit it shall be granted only upon payment of the costs of making the same and the costs of the term; but no costs for the attendance of witnesses shall be included if notice of the application, with a copy of such affidavit, shall have been served upon the opposite party ten days before the commencement of the term. But one change of the place of trial shall be granted to the same side under the provisions of this section. When any judge shall be called in pursuant to this section and shall attend, he shall give to the clerk of the court five days' notice of the time when he will so attend, and such clerk shall give to the attorneys of record of all the parties to the actions, in which applications for a change of the place of trial have been made, immediate notice of the time when such judge will so attend.

Judge to give  
five days'  
notice.

Verification,  
how and by  
whom made.

SECTION 2666. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to those matters stated on information and belief, and as to those matters, he believes it to be true, and must be by the affidavit of the party; or if there be several parties united in interest and pleading together, by one, at least, of such parties acquainted with the facts, if such party be within the county where the attorney resides, and capable of making the affidavit. The affidavit may also be made by the agent or attorney, if the action or defense be founded upon a written instrument in his possession, or if all the material allegations of the pleadings be within his personal knowledge or belief. When the pleading is verified by any other person than the party, he shall set forth in the affidavit his knowledge, or the grounds of his belief on the subject, and the reason why it is not made by the party, and if made on knowledge shall state that the pleading is true to his knowledge, and if on his belief that he believes it to be true. When a corporation is a party the verification may be made by any

officer thereof; and when the state, or any officer thereof in its behalf, is a party, the verification may be made by any person acquainted with the facts.

SECTION 2753. Either at the time of issuing the summons, or at any time thereafter before final judgment, in any action to recover damages founded upon contract, express or implied, or in any cause of action mentioned in section 2731, or upon judgment or decree, or at any time after the issuing of an execution against property, and before the time when it is returnable, the plaintiff or some person in his behalf may make an affidavit stating the amount of the plaintiff's claim against the defendant over and above all offsets, and stating that he verily believes that some person, naming him, is indebted to or has property, real or personal, in his possession or under his control belonging to the defendant, or either, or any of the defendants in the action or execution, naming him or them, and that the indebtedness or property mentioned in such affidavit is, to the best of the knowledge and belief of the person making such affidavit, not by law exempt from seizure or sale upon execution. Any number of garnishees may be embraced in the same affidavit and summons hereinafter provided for; but if a joint liability be claimed against any it shall be so stated in such affidavit, and the garnishees named as jointly liable shall be deemed jointly proceeded against, otherwise the several garnishees shall be deemed severally proceeded against. Such affidavit may be amended at any time before trial by the substitution of a new affidavit containing allegations of facts existing at the time of making the original, and such new affidavit shall stand in lieu of the original for all purposes, and if traversed or denied, trial shall be had thereon as in other cases. In proceedings against a partnership, if the names of the several members thereof are unknown to the plaintiff, the affidavit and all other papers and

Affidavit for garnishment.

Several garnishees may be joined.

proceedings may be entitled in the name of the partnership until the names of the members thereof are known, whereupon the papers and proceedings shall be amended by an order directing the insertion of such names, and all subsequent proceedings shall be in their names. When the affidavit uses a firm name the presumption shall be that the individual names of the several members are unknown.

When judgment not to be rendered against garnishee.

Section 2769. No judgment shall be rendered upon a liability of the garnishee arising either:

1. By reason of his having drawn, accepted, made, endorsed or guaranteed any negotiable bill, draft, note or other security.

2. By reason of any money, or other thing, received or collected by him as sheriff, or other officer, by force of an execution or other legal process, in favor of the defendant.

3. By reason of any money in his hands as a public officer, and for which he is accountable to the defendant merely as such officer.

4. By reason of any money, or other thing, owing from him to the defendant, unless before judgment against the defendant, it shall have become due absolutely and without depending on any future contingency. A debt owing by the owner of a building or other property subject to a mechanic's lien, pursuant to section 3314, shall not be deemed absolutely due until the claims of sub-contractors and employees under section 3315 shall have matured by notice or expired by lapse of time. Judgment may be given for any money, or other thing owing, although it has not become payable, in which case the garnishee shall not be required to pay or deliver it before the time appointed by the contract.

For section 3314, see pp. 1018.

For section 3315, see ch. 321, laws 1:91.

Settlement of bill of exceptions after death of judge.

Section 2877. Whenever the judge before whom the issues in an action shall have been tried shall die or remove from the state, after judgment and before the expiration of the period limited by statute, rule, stipulation or order for serving a bill of exceptions in such action, the bill of exceptions may be settled

and made a part of the record by stipulation of the parties, with the same effect as if duly settled and signed. But if the parties cannot agree, or such judge, when removed from the state, will not attend within the state and settle such bill, a new trial shall be ordered upon the application of the party proposing the bill of exceptions, if made at the first term in the county where the action was tried, succeeding the death or removal of such judge, and accompanied by the affidavit of such party, his agent or attorney, that such application is made in good faith and not for the purpose of delay, upon condition that he pay all the taxable costs of the opposite party, subsequent to and including service of the notice of trial for the term at which the action was tried. In case of such death or removal after such time limited shall have expired, the successor of such circuit judge may in his discretion, and on such terms as shall be just, extend the time for settling the bill, in order that the appellant may procure a stipulation or new trial as herein provided.

SECTION 2883. Judgment may be given for or against one or more of several defendants, and it may determine the ultimate rights of the parties on each side, as between themselves either on cross complaint, or equivalent pleadings, or otherwise, and may grant to the defendant any affirmative relief to which he may be entitled. In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others whenever a several judgment may be proper. The court may also dismiss the complaint, with costs, in favor of one or more defendants, in case of unreasonable neglect on the part of the plaintiff to serve the summons on other defendants or to proceed in the cause against the defendant or defendants served. In case of a finding or decision substantially disposing of the merits, but leaving an account

Judgment in favor of or against any of parties.

to be taken or issue of fact to be decided, or some condition to be performed, in order fully to determine the rights of the parties, an interlocutory judgment may be made, disposing of all issues covered by the finding or decision, and reserving further questions until the report, verdict or subsequent finding.

Judgment in writ of error, how collected.

Section 3067 of the annotated statutes is hereby amended by adding thereto, at the end thereof, the following: In every case where the supreme court shall give judgment against the appellant or the plaintiff in a writ of error upon a money judgment, and either such party shall have given a bond or undertaking in the court below, such judgment shall be entered in such court, on the remittitur being filed therein, against the appellant or the plaintiff in error and his sureties jointly; but it shall not be collected of the sureties if the officer to whom an execution is directed can find sufficient property of the principal to satisfy the same, and a direction to that effect shall be indorsed on the execution by the party issuing it.

Appealable orders

Section 3069. The following orders, when made by the court, may be carried by appeal to the supreme court:

1. An order affecting a substantial right, made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken.

2. A final order affecting a substantial right, made in special proceedings or upon a summary application in an action after judgment.

3. When an order grants, refuses, continues or modifies a provisional remedy, or grants, refuses, modifies or dissolves an injunction, or sets aside or dismisses a writ of attachment for irregularity, grants a new trial or sustains or overrules a demurrer.

4. Orders made by the circuit court vacating or refusing to set aside orders made at chambers, where by the provisions of this chapter

an appeal might have been taken in case the order so made at chambers had been granted or denied by the circuit court in the first instance. For the purpose of appealing from an order either party may require the order to be entered by the clerk of record, and it shall be entered accordingly.

Section 3187. In an action affecting the title to real property the plaintiff, at the time of filing the complaint or any time afterward before judgment, may file in the office of the register of deeds of each county where the property or any part thereof is situated a notice of the pendency of the action, containing the names of the parties, the object of the action and a description of the property in that county affected thereby. If the action be for the foreclosure of a mortgage, such notice must be filed twenty days before judgment, and must contain the date of the mortgage, the names of the parties thereto, and the time and place of recording the same. The defendant may, at the time of filing his answer, or at any time afterward before judgment, file in such register's office a like notice. From the time of such filing, in either case, the pendency of such action shall be constructive notice thereof to a purchaser or incumbrancer of the property affected thereby; and every purchaser or incumbrancer whose conveyance or incumbrance is not recorded or filed, shall be deemed a subsequent purchaser or incumbrancer, and shall be bound by the proceedings in the action to the same extent and in the same manner as if he were a party thereto. Proceedings for acquiring land by the exercise of the right of eminent domain shall be held to be actions affecting the title to real property within the meaning and provisions of this section. In any such action in which a notice of the pendency thereof has been filed and the plaintiff therein shall neglect or fail, for the period of one year after the filing thereof, to serve the defendant or one of the

Notice of  
pendency of  
action to be  
filed.

Eminent do-  
main.

defendants therein with the summons in the action, either personally or by publication, said notice shall be void, and upon motion the circuit court of the county wherein it was filed shall, upon proof that said period has elapsed and that the summons has not been so served, forthwith make an order directing that such notice be discharged of record.

Liens, who  
may have;  
what subject  
to.

Section 3314. Every person who, and firm, corporation or association which, as principal contractor, architect, civil engineer or surveyor, performs or procures to be performed any work or labor, furnishes any materials, or prepares any plans, specifications or estimates:

1. For or in or about the erection, construction, repair, protection or removal of any dwelling house, building or appurtenance thereto, structure, bridge, wharf, dock, pier, fence, wall or screen or other permanent erection, or any machinery so erected or constructed as to be or become a part of the freehold upon which it is situated;

2. In or about the improving or equipping of any house or building with chandeliers, brackets, wires, pipes or appurtenances for supplying gas, electric or other light, water or heat;

3. In the dredging, digging, excavating, constructing or equipping any channel, well, cellar, vault, fountain, fish-pond, trench or tunnel;

4. In the filling, dredging, improving, digging, driving or removing piles in any water or water course, any water lot, meadow, marsh, swamp or other low lands;

5. In the making or repairing any walk, sidewalk, cross-walk, curbing or apron;

6. In grading, graveling, leveling or otherwise constructing or repairing any street, alley, roadway or gutter upon land, irrespective of any easement on or over said land;

7. Or in setting out or planting any hedge, or fruit or ornamental trees;

Shall have a lien thereupon, and upon the



interest of the owner of any such building, machinery or other structure or work of any kind herein mentioned, or of the interest of the person causing such work or labor to be done, or such materials, plans, specifications or estimates to be furnished in and to the land upon which the same is situated not exceeding forty acres, or if within the limits of a city or incorporated village, upon the piece or parcel of land designed for use in connection with such house, building, machinery, structure or other such work, not exceeding one acre. Such lien shall be prior to any other lien which originates subsequent to the commencement of the construction, repairs, removal or work aforesaid, of or upon such dwelling house, building, machinery, structure or work; shall also be prior to any unrecorded mortgage given before the commencement of such construction, repairs, removal or work, of which mortgage the person claiming the lien has no notice, and shall also attach to and be a lien upon the real property of any person upon whose premises such improvements are made, such owner having knowledge thereof and consenting thereto, and may be enforced as provided in this chapter. In case any person shall order or contract for the purchase of any machinery to be placed in or connected to or with any building or premises, and such person shall not have an interest in such building or premises in or connected with which such machinery is placed sufficient for a lien, as provided for in this chapter, to secure payment for said machinery, the person furnishing the same shall have and retain a lien upon such machinery, and have the right to remove from such building or premises such machinery, in case there shall be default in making payment therefor when due, leaving such building or premises in as good condition as before such machinery was placed in or on the same. Every person who, as principal contractor, does or causes or procures to be done any manual labor on land, for the pur-

Priority of  
liens.

Sellers' rights  
of liens.

Continuous  
road-beds,  
liens on.

pose of preparing such land for use as such, shall have a like lien upon such land, subject to the same provisions and attaching to the same interests as the lien hereinbefore provided for. And whenever the doing of any such manual labor shall consist of the building of a continuous roadbed, structure or plant designed or intended for use as, or as a part of, a single thing, and such roadbed, structure or plant is not limited in extent to one acre of land in or partly in a city or incorporated village or to forty acres of land wholly or partly outside the same, but extends over and across more than one acre, wholly or partly within such city or village, or more than forty acres whether within or without, or partly within and partly without such city or village, then and in every such case, the limitation to one acre, or forty acres, as the case may be, shall not apply, but the party entitled shall have a lien upon all the interests of the owner in and to the whole of said continuous roadbed, structure or plant and the whole of his land on which the same is constructed, or which is intended to be used or is used for the purpose of such roadbed, structure or plant; and the claimant may make and file a single petition or claim for a lien on all the same, which petition or a copy thereof shall be filed in the office of the clerk of the circuit court of each county in which such roadbed, structure or plant is situate or partly situate, and such lien may be foreclosed or enforced in the circuit court of any of the said counties in which the said claim or petition is so filed, and in the enforcement thereof the said roadbed, structure or plant, if sold, shall be sold as one continuous and single thing. And whenever the doing of any work or labor, or the furnishing of any material for which a lien is given by this section shall consist of the grading, filling or leveling of land, or the grading, graveling or making of any street, alley, roadway or gutter thereon or thereover, where such land is situated within the limits of a city or incorporated vil-

Street im-  
provements,  
liens on.

lage, and said material is furnished or said work done upon more than one acre, under a contract for the improvement of more than one acre, in the manner aforesaid, then and in every such case the limitation to one acre shall not apply, but the party entitled shall have a lien on all the land upon which said work is done, or for the improvement of which said material is furnished, and may make and file a single petition or claim for a lien on all of the same; provided, that the lien given for grading, filling or leveling land, or grading, graveling, or making any street, alley, roadway or gutter thereon or thereover, shall not exist when such work is done, or the material necessary for the doing of the same is furnished under contract with or by the direction of any city or village. This section shall not be construed as giving a lien where the relation of landlord and tenant exists, against the interest of the landlord for improvements made or labor performed at the instance of the tenant or lessee, but the lien shall affect the interest of the tenant or lessee only.

Landlord and tenants.

An assignment of his claim or right to a lien, or any part thereof, by the contractor, or garnishment by his creditor shall not operate to compel the owner to pay the assignee or creditor until the claims of subcontractors and employes under section 3315 shall either have matured by notice or expired by lapse of time. If such claims, under section 3315, become liens the owner shall be compelled to pay such assignee or creditor only what may remain due in addition to such liens.

Assignments of right to a lien.

For section 3315, see ch. 321, L. 1891.

Section 3333. When more than one person has a claim for a lien upon the same property, any person having such a claim may have assigned to him in writing the debt or claim of the other, subject to setoffs to said claim against the original owner, and may file a petition for his own lien and for the claims for liens so assigned to him, and bring an action to enforce the same in his own name; but such

When more than one person has claim for lien on same property.

petition shall allege such assignment. Any time check or time order, signed and given by any employer to any employee for performing any labor or services or any claim therefor, for which a lien is given by section 3329 shall be assignable, and the assignment thereof shall give to the assignee all the right to a lien and to the enforcement thereof which the assignor might have exercised but for such assignment.

NOTE.—Any person who shall do or perform any labor or services in cutting, hauling, running, felling, piling, driving, rafting, booming, cribbing, towing, sawing, peeling or manufacturing into lumber or timber any logs, timber, stave-bolts, staves, pulp wood, cord wood, railroad ties, piling, telegraph poles, telephone poles, fence posts, paving timber, tan or other barks, or in preparing wood for, or manufacturing charcoal shall have a lien upon such material for the amount due or to become due for such labor or services, which lien shall take precedence of all other claims, liens or incumbrances thereon or sales thereof, whether such claims, liens, incumbrances or sales are made, created or accrue before or after the time of doing such work, labor or services.—Section 3329, chapter 380, laws of 1897, which goes into effect Sept. 1, 1898.

Proceedings in forcible entry or unlawful detainer.

Section 3362. The party complaining shall proceed by action, before a justice of the county, or if the premises be within a city, then before a justice of such city, and shall file a complaint, in writing, signed by him, as agent or attorney, giving therein a description of the premises of which possession is claimed, stating the facts which authorize the removal of the person in possession, naming him, and praying for his removal. The justice shall thereupon issue a summons, directed to the sheriff or any constable of the county, commanding him to summon the person against whom such complaint shall have been made, to appear before him on a day and place in such summons named, which shall not be less than three nor more than ten days from the day of issuing the same. Such summons shall be in the form usually issued by justices of the peace in civil actions, and shall, in addition state that the complaint has been filed.

Sale of realty of infants, application, how made.

Section 3504. The application for such disposition must be made to the circuit or county court of the county in which such real estate or some part thereof is situated, or to the circuit judge in vacation, by petition of the general guardian of the infant or of such incompetent person, or by any relative or other

person in behalf of either. Such petition must be verified, and must set forth the facts which would authorize the selling, mortgaging or leasing of such real estate or some part thereof for one or more of the reasons set forth in the preceding section. If a sale is sought on behalf of one or more, but not all of such infants in any case where an action for partition would lie, the whole tract may be sold and the proceeds applied as directed in section 3513; but the share of those who do not join in the application shall be paid to their guardians.

Section 3505. When such application is made on behalf of an infant, the court or circuit judge must appoint some suitable person special guardian of such infant, in relation to the proceeding on such application; such special guardian, and when the application is made on behalf of an incompetent person the guardian of such incompetent person, shall give a bond to such infant or incompetent person, by name, as the case may be, to be filed in the county court or with the clerk of the circuit court, in such sum, with such sureties and in such form as the county or circuit court or circuit judge shall direct, conditioned for the faithful performance of the trust reposed, for paying over, investing or accounting for all moneys that shall be received by such guardians, according to the order of any court having authority to give directions in the premises, and for observance of the directions of the court in relation to the said trust. In case of the breach of the conditions of such bond it may be prosecuted for the benefit of the party injured without any direction therefor.

Guardian for infant, bond; prosecution of breach.

SECTION 3506. Upon the presentation of such petition and the filing of such bond, either such court or the circuit judge may proceed in a summary manner to inquire into the merits of such application, or make an order referring it to some suitable person as referee to inquire into and report upon the matters contained in such petition, whose duty it shall

Merits of application, how determined.

be to examine into the truth of the representations made, to hear the parties interested in the property, or otherwise interested in the application, and report thereupon with all convenient speed.

Order of sale of infants' realty, when made.

Section 3507. If, after an examination of the matter by the court to which application is made or by the circuit judge without a reference, or on the coming in of the report of the referee, and on examination of the matter, it shall satisfactorily appear that a disposition of any part of the real estate of such infant or incompetent person, or any interest therein, is necessary and proper, for any of the causes mentioned in section 3503, such court or the circuit judge shall make a final order directing the leasing, mortgaging or sale of such real estate or interest therein, or of such part thereof as the court or judge shall deem proper to be made by the special guardian of such infant so appointed, or by the guardian of such incompetent person, as the case may be, in such manner and with such restrictions as shall be deemed expedient.

Agreement to be approved, before being executed.

Section 3508. No such lease, mortgage or sale shall be made until an agreement therefor shall be entered into by such special guardian of the infant, or guardian of such incompetent person, subject to the approval of the proper court or the circuit judge. Upon the confirmation of such agreement by such court or judge, he must execute a lease, mortgage or deed as directed by the order of confirmation.

Effects of deed, given by guardian of infant.

Section 3511. Every deed, mortgage, lease or other conveyance made in good faith by the guardian of an infant or incompetent person, pursuant to any order or judgment of the county or circuit court or the circuit judge, made under the provisions of this chapter, shall be as valid and effectual as if made by such infant when of full age, or by such incompetent person when of sound memory and understanding.

Section 3513. The court or judge shall make an order for the application and disposi-

tion of the proceeds of any such sale or mortgage, and of the income derived from the investment thereof, and of the rent accruing upon any such lease, and direct the investment of any portion thereof belonging to such infant or incompetent person, which is not needed for the payment of debts or the immediate support of himself and family, so as to secure the same for the benefit of such infant or incompetent person, and shall direct a return of such investment to be made on oath as soon as may be, and shall require accounts to be rendered periodically by any guardian or other person who may be instructed with the disposition of such proceeds, or the income thereof. When such order is made by a circuit court or circuit judge a certified copy thereof, of the return of the investments made in pursuance thereof and of the accounts rendered by any guardian or other person shall be made by the clerk of said court and filed in the county court of the proper county. If any such guardian or other person shall fail or neglect to make a proper return or to render such accounts as the order of the circuit court or judge thereof requires, such court or judge shall cause the proper county court to be informed of the fact, and such court shall thereupon have the same authority to call the guardian or other person so in default to account, and the same procedure shall apply as if the entire proceedings were had in the county court.

Proceeds of sale of infant's realty, how applied.

Default of guardian.

SECTION 3514. If the real estate or interest therein of any infant or any incompetent person directed to be sold, is subject to a right of dower, or an estate for life or for years, in the whole or any part thereof, and the person having such right or estate, shall before such sale, consent in writing to accept a gross sum in lieu of such dower or other estate, to be fixed according to the principles of law applicable to annuities, or to have a proportionate share of the proceeds of the sale invested, and the interest thereof paid to him until the termina-

Dower right, estate for life, in infant's realty, how compensated for.

tion of such right or estate, and file such consent in the county court or with the clerk of the circuit court, the final order for the sale may, in the discretion of the court or circuit judge, direct that such right or estate shall be sold, together with the estate or interest of the infant or incompetent person. After such sale the court must ascertain the value of such right or estate, and direct the payment of such sum in gross, or the investment of a proportionate share of the proceeds and the payment of the interest thereof to the person having such right or estate until the expiration thereof. But no such gross sum shall be paid or investment made until an effectual release of such right or estate has been duly executed so as to entitle the same to be delivered to the purchaser. If the owner of such right or estate for life or years shall not so consent, the same may nevertheless be sold, in the discretion of the court, and the value or proceeds thereof determined as hereinbefore provided, paid to him.

Infant, ward  
of court.

Section 3516. From the time of such application on behalf of an infant, or of an incompetent person having no guardian, he shall be considered the ward of the court to which the application is made, or if it is made to the circuit judge, of the circuit court, so far as it relates to such property, its proceeds and income.

Competency  
of witness.

Section 4068 of the annotated statutes is hereby amended by adding thereto at the end thereof the following: Any party to the record in any civil action or proceeding, or any person for whose immediate benefit any such action or proceeding is prosecuted or defended, or the president, secretary or other principal officer or general managing agent of any corporation which is such a party or for whose benefit the action or proceeding is prosecuted or defended, may be examined upon the trial of any such action or proceeding as if under cross examination at the instance of the adverse party or parties, or any of them, and



for that purpose may be compelled in the same manner and subject to the same rules for examination as any other witness, to testify; but the party calling for such examination shall not be concluded thereby and may rebut the evidence given thereon by counter or impeaching testimony.

Section 4102. Such deposition may be taken, within the territory in which he is authorized to act, by a justice of the peace, notary public, a court commissioner, or other person authorized by law to take depositions, at any time after the action or preceeding is commenced, or after a submission to arbitration. Notice in writing shall be given to the adverse party, his attorney or agent, that the deposition of the witness or witnesses named will be taken before the officer, naming him, at a time and place appointed therein, for one of the causes mentioned in the preceding section; and in all cases not less than twenty-four hours shall be allowed after service of such notice before the time appointed for taking the deposition when the same is to be taken in the same town, city or village in which the notice is served, and when the same is to be taken in another town, city or village within this state, at least two days' notice shall be given, and also time at the rate of one day, Sundays excepted, for every fifty miles' travel after the first ten miles, from the place where such notice is served, when the deposition is taken within the state, and time at the rate of one day for each three hundred miles from the place where notice is served, when taken without the state; provided, that one day's notice shall be sufficient in case of the 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. In case the officer before whom the deposition is noticed for being taken shall not appear or attend at the time and place noticed for taking the same, the deposi-

Depositions within the state, where, by whom taken, notice of and compensation.

tion may be taken before any other officer authorized by law to take depositions. But in any action or proceeding in any court no notice of taking a deposition need be given to a defendant, who having been duly served with process, shall not have appeared, if the time limited by law therefor shall have expired.

Depositions  
without the  
state, by whom  
and how  
taken.

Section 4110 of the annotated statutes is hereby amended by striking therefrom the word "civil" in the first line thereof. Also adding at the end thereof the following: Such deposition may also be taken by commission in a foreign country by any judge or clerk of a court of such country, any notary public, consul, vice consul, deputy consul or consul 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 a commissioner or commissioners, whether otherwise authorized or not, appointed for that purpose by such commission. When it shall appear to the judge of the court from which the commission issues that the witness is unable to speak or understand the English language, such judge 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 or partial translation shall be sent to the commissioner in place of the original papers or such thereof as 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. Such translator shall append to all such 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.

In foreign languages, how translated.

SECTION 4160 of the annotated statutes is amended by adding at the end thereof the following: 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 from its proper custody, and must be supported by the oath of some person having lawful charge thereof that it is such a record as it purports to be, and is genuine to the best of his knowledge and belief.

Records of birth, etc.

SECTION 4189 of the annotated statutes is amended by adding at the end thereof the following: Entries in a book or other permanent form, other than those mentioned in sections 4186 and 4189b, 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 reach of a subpoena of the trial court, or insane, of any person having custody of the entries and testifying that the same were made by a person or persons authorized to make

Entries in books to be admitted, when.

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 or papers as a part of the system of keeping a record of such transactions, it shall not be necessary to produce as witnesses all of the persons subject to subpoena 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.

Comparison of  
disputed writ-  
ing.

Section 4189a. 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 instrument or writing shall be permitted to be made by witnesses, and such writings and evidence respecting them may be submitted to the court or jury.

Limitation of  
actions.

Section 4222. Within six years:

1. An action upon a judgment of a court not of record.

2. An action upon any bond, coupon, interest warrant, or other contract for the payment of money, whether sealed or otherwise, made or issued by any town, county, city, village or school district in this state.

3. An action upon any other contract, or liability, express or implied, except those mentioned in the last two preceding sections.

4. An action upon a liability created by statute, other than a penalty or forfeiture, when a different limitation is not prescribed by law.

Injury to per-  
sonal or real  
property, or to  
persons.

5. An action to recover damages for an injury to property, real or personal, or for an injury to the person, character or rights of another not arising on contract, except in case where a different period is expressly prescribed. But no action to recover damages for injuries to the person, received without this state, shall be brought in any court in this

state when such action shall be barred by any statute of limitations of actions of the state or country in which such injury was received, unless the person so injured shall at the time of such injury have been a resident of this state. No action to recover damages for an injury to the person shall be maintained unless within one year after the happening of the event causing such damages, notice in writing signed by the party damaged, his agent or attorney, shall be served upon the person or corporation by whom it is claimed such damage was caused, stating the time and place where such damage occurred, a brief description of the injuries, the manner in which they were received and the grounds upon which claim is made, and that satisfaction thereof is claimed of such person or corporation. Such notice shall be given in the manner required for the service of summons in courts of record. No such notice shall be deemed insufficient or invalid solely because of any inaccuracy or failure therein in stating the description of the injuries, the manner in which they were received or the grounds on which the claim is made, provided it shall appear that there was no intention on the part of the person giving the notice to mislead the other party, and that such party was not in fact misled thereby. Provided, that the provision herein requiring notice of one year shall not apply to any event causing damage which happened before the 28th day of April, 1897, nor shall that part of section 5 of chapter 304 of the laws of 1897, relating to such notice apply to any such event.

6. An action to recover personal property or damages for the wrongful taking or detention thereof.

7. An action for relief on the ground of fraud in a case which was on and before the twenty-eighth day of February, A. D. 1857, cognizable solely by the court of chancery. The cause of action in such case is not deemed to have ac-

Notice, how given.

To recover personal property.

Action in case of fraud.

crued until the discovery, by the aggrieved party, of the facts constituting the fraud.

SECTION 3. Amend subdivisions 113 and 216 of chapter 40a of the annotated statutes so as to be numbered and to read as follows:

Board of edu-  
cation; ap-  
pointment,  
terms.

Section 925<sup>113</sup>. In every city which shall adopt this chapter for its government, if there shall be at the time of such adoption a board of education or school board elected by the people under the provisions of its charter, or the school district system is in force, the election and organization, powers and duties of such board shall not be affected by this chapter, and such system shall continue until changed by a vote of the electors of the city. In all other cities governed by this chapter the board of education shall consist of one commissioner from each ward and three from the city at large, to be appointed by the mayor and confirmed by the council, or elected by the common council, if determined by ordinance. The mayor in appointing the first board, or council in electing, shall divide the members into three classes, as nearly equal as may be, one of the commissioners at large being in each class, and shall appoint those of one class for one year, those of another class for two years and those of the remaining class for three years. Each commissioner shall hold his office for the term designated in such classification, and until his successor shall have qualified; thereafter all commissioners shall be appointed and hold their offices for three years and until their successors shall have qualified.

Assessment  
against lot  
owners, by  
board of pub-  
lic works.

Section 925<sup>216</sup>. After any contract for work under this subchapter, to be paid for in whole or in part by such assessment, shall have been entered into, the board of public works, or if there be no such board, the officer or officers designated to discharge its duties, shall make an assessment against all lots, part of lots and parcels of land fronting or abutting on the work so contracted to be done, on each side of the same for its whole length, and which have

not been before so assessed for sewerage purposes, at an even rate not exceeding two dollars, nor less than twenty-five cents per linear foot on each side of the street of the whole frontage of each lot, part of lot or lots or parcel of land fronting or abutting on each side of said sewer, except corner lots, which shall be assessed therefor as follows: Corner lots not subdivided in ownership, and subdivisions of such lots constituting the actual corner of corner lots subdivided in ownership shall be entitled to a deduction in making such assessments, of one-third from the aggregate of the T street lines of such corner lot or corner subdivisions thereof on all the streets in front thereof; such deduction to be made in the assessment of the longest street line of such corner lots or corner subdivisions thereof, or in case of equal street lines thereof in the assessment for the second sewer to which they are liable. Whenever any lot is subdivided which, as originally platted, fronts or abuts on any sewer and the subdivisions thereof are owned by different persons, no subdivisions of such lots not fronting or abutting on such sewer and not owned by the same person who owns the subdivision fronting or abutting on such sewer, shall be assessed for the cost of such sewer. Before any such assessment shall be made notice of at least seven days shall be given by said board, by publication in the official paper, to the effect that such board will meet at a certain time and place for the purpose of making such assessment, and that all persons interested may appear and be heard upon the matter of the assessment, and the apportionment of the expense herein provided for among the lots in the sewerage district. At least one day prior to such hearing the board shall make and file in its office a plat, report or table intelligibly exhibiting the sums to be assessed on all the lots in the district, which plat, report or table shall be open to public inspection.

SECTION 4. Amend the annotated statutes by making the following new sections thereof, to be parts of the several chapters to which they belong according to their numbers, so that they will read as follows:

Water, lighting and steel railway, etc., properties deemed personal property.

Section 1037a. The hydrants, pipes, meters and other fixtures and appurtenances used for the supply and distribution of water in connection with any water-works plant not owned or operated by any municipality, all poles, wires, insulators, transformers or transmuters, meters, pipes and other property or appurtenances used in connection with any electric lighting plant not owned or operated by any municipality, and all gas pipes, meters, and other property and appurtenances used in connection with any gas lighting plant not owned or operated by any municipality, together with all real estate owned or used by the person or corporation engaged in such business, and necessary to the prosecution thereof, shall be deemed personal property for the purpose of taxation, and shall be assessed in the assessment district where the principal office or place of business of the person or corporation owning or operating such plant is situated, if any, otherwise in the district where the pumping station, pressure plant, generator or producing plant may be located. If any such plant be owned or operated by a person or corporation, other than the local municipality, the corporate franchises and the franchise to operate or maintain such plant, and to distribute and supply water or light, and occupy public streets, alleys or grounds with mains, pipes, poles, wires and other like property, shall be deemed personal property for the purpose of taxation, and shall be assessed, together with such real estate and such other personal property, in said assessment district, as a single item valued and assessed together. If any such person or corporation be carrying on any such business or have his or its property in one or more municipalities, the assessors of such municipalities shall

How assessed.



meet, assess all the property of such person or corporation and extend on the assessment rolls of their respective municipalities the proportion of the assessed valuation thereof properly belonging to the same. The proportion shall be ascertained by the length of such mains, pipes, poles, or wires including all such as extend into any building, hydrant, light or signal, adding to the proportion allowed to each municipality the value of any real estate so used or owned by such person or corporation within its limits, so that each municipality shall have placed upon its assessment rolls the full assessed valuation of all the property of such person or corporation situated within its limits. The treasurer of the town, city or village containing the principal office or place of business of such person or corporation, or in case there be none, then the treasurer of the town, village or city containing the pumping station, pressure plant, generator or producing plant, shall collect said taxes, and when collected the same shall be paid over to the treasurer of any other town, village or city in the proportions hereinbefore mentioned, and such treasurer shall be liable for the money so collected as in other cases. In case of the non-payment of such taxes the same shall be collected, as personal property taxes are collected, and upon a judgment being rendered therefor and execution issued out of a court of record and returned unsatisfied, any appropriate remedy by creditor's suit or otherwise may be had, including the appointment of a receiver in a proper case. This section shall not apply to the property or franchises of any person, company or corporation engaged in the operation, management or maintenance of a street railway operated by mechanical power only, nor to the property or franchise of a person, company or corporation exclusively engaged in the manufacture or furnishing of electric light or power, nor to a plant separately operated, as to which license fees are paid, as provided in

In case of non-payment, how collected.

For subd. 14  
of sec. 1038,  
see pp. 1000

subdivision 14 of section 1038. If neither the principal office, place of business, pumping station, pressure plant, generator or producing plant is in this state, but is in another state, the poles, wires, pipe or other property in this state shall be assessed and taxed as personal property, and the taxes collected as personal property taxes are collected.

Failure to  
verify  
articles of  
incorporation  
not to affect  
validity.

Section 1772a. Whenever in the organization of corporations under chapter 146 of the Laws of 1872, there may have been a failure to verify a copy of the articles recorded in the office of the register of deeds of the proper county, such failure shall not affect the validity of the corporation, but the same shall be a body corporate from and after the recording of such copy the same as though the copy had been duly verified. In any controversy as to the validity of such corporation it shall be presumed that the copy thus recorded is a true copy of the original articles, and such copy, or a certified copy of the record thereof, shall be prima facie evidence in all courts and places of the organization of such corporation.

Corporations  
to file list of  
officers with  
register of  
deeds.

Section 1775b. Every private corporation incorporated or organized under any law of this state shall, on or before the first of October, 1898, file in the office of the register of deeds of the county where its principal office is located, a list containing the names of its president, vice-president, if any, secretary, treasurer, cashier or managing agent, on whom service of process, notices or orders may be made as provided in subdivision 10 of section 2637.\* Any such corporation hereafter formed shall file such list in the office of the register of deeds of the county where its principal office is located within five days after each election or appointment or any subsequent change of such officers respectively; and in all cases until such list of officers is so filed as aforesaid, service

\*NOTE.—If against any other corporation organized under the laws of this state, to the president, or other such chief officer, vice president, secretary, cashier, treasurer, director or managing agent thereof, or in the manner provided in section 1775b, in the cases therein provided for. -- Subdivision 10, of section 2637, chapter 380, laws of 1897, which goes into effect Sept. 1, 1898.

of all legal process, notices, orders, or other legal proceedings may be lawfully and effectually made upon any such corporation by delivering to and leaving with the register of deeds where such corporation has its principal office true copies of such legal process, orders, notices, or proceedings, in which case service so made shall be valid.

Section 1791d. Any number of persons, not less than five, may become incorporated for the purpose of transacting business as a trust, annuity, guaranty, safe deposit and security company upon complying with the provisions of this chapter, and any company so formed, and its successors, shall be entitled to the rights and privileges and be subject to the duties and obligations herein prescribed. The capital stock of any such corporation shall be fixed and limited by the articles of association, and must be at least one hundred thousand dollars, and not to exceed five millions dollars, except that in cities of less than one hundred thousand inhabitants it shall not be less than fifty thousand dollars. When fifty per centum of the capital stock fixed in the articles shall have been paid in, in cash, and an affidavit to that effect is duly made by the president or secretary and filed with the secretary of state, he shall, by proper certificate, authorize such corporation to commence business. The balance of the capital stock shall be paid in at such times, and in such amounts as the board of directors may determine, but the whole thereof shall be paid in within six months from the date of the commencement of business; and whenever such capital stock is fully paid, and an affidavit to that effect is duly made by the president or secretary and filed with the secretary of state, he shall give to the corporation a certificate to that effect. All of the general provisions of chapters 86 and 87 relating to corporations shall apply to corporations created under this section.

Incorporation  
of trust, an-  
nuity, etc., cor-  
porations.

Capital stock,  
limitations,  
and amounts  
to be paid in.

Section 1816b. No action against any railroad corporation for damages to property oc-

Limitation of actions against railroad corporations for damages by fire.

caused by fire set from a locomotive, or for stock killed or injured by such corporation shall be maintained, unless, within one year after the happening of the event causing such damage; notice in writing, signed by the party owning such property or stock, his agent or attorney, shall be given to the corporation against which damage is claimed, stating the time and place where such damage occurred, and that satisfaction therefor is claimed of such corporation. Such notice may be given in the manner provided for the service of summons upon such corporations in courts of record. No such notice shall be deemed insufficient or invalid solely because of any inaccuracy or failure therein in stating the time or describing the place where such damages occurred, if it shall appear that there was no intention on the part of the person giving such notice to mislead said corporation, and that the latter was not in fact misled thereby.

Capital stock of casualty and suretyship insurance companies, limitations of.

Section 1966<sup>27</sup>. No such corporation for any one of the purposes specified in section 1966<sup>25</sup>, shall do business with a capital stock of less than one hundred thousand dollars fully paid in, in cash, with an additional fifty thousand dollars fully paid in, in cash, for every kind of insurance, more than one, which it is authorized to do; provided, that any corporation organized under subdivision four of section 1966<sup>25</sup> shall have a capital stock of not less than one hundred and fifty thousand dollars fully paid in, in cash. Before any such corporation commences business its whole capital must be invested in treasury notes, stocks or bonds of the United States, or of this state, or of cities, villages, towns or counties herein, or in mortgages being first liens on real estate within this state, worth double the amount loaned thereon, exclusive of buildings, unless such buildings are kept insured and the policy held by such corporation; at least one hundred thousand dollars worth of which stocks, bonds and mortgages aforesaid, approved by the commissioner of insurance, and duly made or

Capital stock, how invested.

assigned to the state treasurer in trust for the purposes hereinafter mentioned. Said treasurer shall hold such securities for the benefit and protection of the policy holders of the corporation; and so long as any such corporation continues solvent shall permit it to collect the interest or dividends thereon, and from time to time withdraw such securities, or any part thereof, if approved by said commissioner, on depositing with the state treasurer other securities of the kind heretofore named and of equal value with those withdrawn.

NOTE.—Any number of residents of this state, not less than fifteen, may, in the manner hereinafter proscribed, form a corporation for the purpose of issuing policies for any of the following kinds of insurance, and doing the following kinds of suretyship business:

1. Insuring any person against bodily injury, disablement or death resulting from accident, and provide benefits for disability caused by disease.
2. Insuring any one against loss or damage resulting from accident to, or injury suffered by, an employe or other person, for which accident or injury the person insured is liable.
3. Guaranteeing the fidelity of persons holding places of public or private trust, and the performance of contracts, other than of insurance, and executing or guaranteeing bonds or undertakings required or permitted in all actions or proceedings, or by law allowed.
4. For the purpose of examining titles to real estate and chattels real, to procure and furnish information relating thereto, make and guarantee the correctness of searches for all instruments, liens or charges affecting the same, and guarantee or insure bonds and mortgages and the owners of real property and chattels real, and others interested therein, against loss by reason of defective titles thereto, and other incumbrances thereon. Such a corporation shall be known as a title guarantee corporation.
5. To guarantee and indemnify merchants, traders and all others engaged in business and giving credit therein from loss or damage by reason of giving or extending credit to their customers. Such corporation shall be known as a credit guaranty corporation.
6. Against loss by burglary or theft, or both.
7. Upon glass against breakage.
8. Upon steam boilers, and pipes, engines and machinery connected therewith, or operated thereby; against explosion and accident and loss or damage to life or property resulting therefrom, and to make inspection of and to issue certificates of inspection upon such boilers, pipes, engines and machinery.
9. Upon elevators, and machinery forming a part thereof, and to make inspection of and to issue certificates of inspection upon the same.
10. Against any other casualty or insurance risk specified in the articles of organization, which may lawfully be the subject of insurance and the formation of corporations for insuring against which is not otherwise provided for by these statutes.—Section 1966<sup>32</sup>, chapter 380, laws of 1897, which goes into effect Sept. 1898.

Section 1966<sup>32</sup>. Any casualty insurance or suretyship corporation organized under the laws of any other state or foreign country may be admitted to transact business in this state by filing with the commissioner of insurance, for his approval, the following documents and papers:

Foreign companies may be admitted.

Papers to be filed with insurance commissioner.

1. An application for license to do business in this state, setting forth the full name of the corporation, the location of its principal

Applications to contain what

office of business, and separately, the several kinds of business to be transacted; said application to be signed only by the president or general manager.

Verified statement, to contain what.

2. A statement verified by the oath of the president, secretary or manager residing in the United States, showing to the satisfaction of said commissioner that the corporation has a capital stock of at least one hundred thousand dollars, and has a like amount invested in securities deposited with the superintendent of the insurance department, state treasurer, or other proper officer of some one of the states of the United States, that such securities are not pledged or incumbered, and have a market value of at least one hundred thousand dollars, but are held and remain for the benefit and security of the policy holders of such corporation residing in the United States, or in default of such statement shall deposit with the state treasurer, for the benefit and security of policy holders residing in this state, not less than fifty thousand dollars in such securities; provided, that if such corporation shall desire to do business under more than one of the subdivisions of section 1966<sup>26</sup> it shall make an additional deposit of fifty thousand dollars in securities as aforesaid for each additional subdivision that it desires to do business under. The stocks and securities so deposited may be exchanged from time to time for other securities to be approved by the commissioner of insurance, and so long as the corporation so depositing shall continue solvent and comply with the laws of this state, it may be permitted by the state treasurer to collect the interest or dividends on said securities.

What deposits to be made.

Certified copy of its charter.

3. A copy of its charter and by-laws, duly certified to by the superintendent of the insurance department or other proper officer of the state or country wherein incorporated, together with a certificate of such officer that the corporation is duly organized and licensed

to transact the business of casualty or fidelity insurance in such state or country, stating, separately, the different kinds as provided in section 1966<sup>35</sup>, together with an appointment of the commissioner of insurance of this state and his successors in office as attorney upon whom any summons, notice or process of any court of this state may be served, as required of fire insurance corporations of other states.

Appointment  
insurance  
commissioner  
as attorney,  
upon whom  
process may  
be served.

4. A complete statement of the financial condition, as shown by the last annual statement of the insurance department of the state or country wherein incorporated, and a financial statement showing the condition of the corporation on the first day of the month next preceding the date of application. All such corporations admitted to transact business in this state must comply with the laws governing like corporations organized under the laws of this state, except as hereinbefore provided; and all such corporations and all persons acting as agents thereof shall be subject to the same penalties prescribed by these statutes relating thereto for a violation of any of the provisions thereof and to the same methods for the enforcement of such penalties.

Complete  
statement of  
financial  
condition.

Section 1966<sup>34</sup>. The commissioner of insurance, upon due proof by a suretyship company, of its possessing the qualifications required, shall issue a certificate setting forth that it has qualified and is authorized for the ensuing year to do business under these statutes, which certificate or a copy thereof certified by the commissioner of insurance shall be evidence of such qualification and of the company's authority to become and to be accepted as sole surety on all instruments mentioned in the preceding section, of its solvency and credit for all purposes, and its sufficiency as such surety; and said certificate or a copy thereof certified as aforesaid shall be equivalent to the justification required of sureties by law.

Insurance  
commissioner  
to issue cer-  
tificate, when.

Section 2023r. On the second Monday in December and annually thereafter, the examiner

Bank exam-  
iner to make  
report, when.

To contain  
what.

shall make a report to the governor which shall be published, and shall exhibit, as shown by the last reports made to said examiner: First, a tabulated summary of the condition of every bank from which a report has been received during the preceding twelve months, showing the amount and character of its resources and liabilities and such other fact as in his judgment may be required; second, a statement of the banks whose business has been closed since the date of his last report; the amount of their resources and liabilities, and the amount paid the creditors thereof; third, the names of all stockholders, partners or persons interested in each of said banks and the amount of the capital owned therein by each. On the first day of January in each year the examiner shall make to the state treasurer a statement of the expenses of his office, and the amount of fees received and penalties collected during the preceding year.

Drawing of  
petit jurors in  
courts of ex-  
clusive civil  
jurisdiction.

Section 2533a. Petit jurors for all circuit courts, the municipal courts of Milwaukee and Racine counties, the superior courts of Douglas and Milwaukee counties, and for all other courts of exclusive civil jurisdiction except county courts, shall be drawn and obtained as prescribed in this and the four next following sections by three commissioners appointed in each county by the circuit judge, except that in counties where there is more than one court within this section such commissioners shall be appointed by the joint action of all the judges of such courts. The persons so appointed shall be freeholders of the county and possess all the qualifications required by sections 2524 and 2530, and shall be known as jury commissioners. Their duties shall be as hereinafter prescribed. Their term shall be three years, but the judge or judges shall, in the first instance, appoint one commissioner for one year, one for two, and one for three years, and thereafter shall appoint one each year for three

Jury commis-  
sioners, how  
appointed.

Term of office  
and duties.



years from the first day of July. Vacancies shall be filled for the unexpired term; and any commissioner may be removed by the judge or a majority of the judges appointing him at will. Each commissioner shall before entering upon his duties, take and subscribe, before the clerk of the circuit court of his county, an oath to support the constitution of the United States and the constitution of this state, and faithfully to discharge the duties of jury commissioner to the best of his ability. Such oath shall be certified by said clerk and filed in his office. Two commissioners shall constitute a quorum, and each of them shall, in all counties having a population of twenty thousand or over, according to the last federal or state census, receive five dollars for each day actually spent in official service, and in counties having a less population three dollars per day for time so actually spent and ten cents for each mile actually traveled in attending any and all meeting of the commissioners in the discharge of their duties; such compensation and mileage shall be paid by the county treasurer on the order of the clerk of the said court, countersigned by the circuit judge. Said clerk shall furnish, at the expense of the county, all books and stationery required by the commissioners. Commissioners already appointed by the circuit judge in counties having more than one court, and jurors selected by them shall continue to be commissioners and jurors respectively for all such courts until others are appointed or selected.

Compensation  
of commis-  
sioners.

**NOTE.**—All persons who are citizens of the United States and qualified electors of this state shall be liable to be drawn as jurors, except as is otherwise provided in these statutes.—Section 254, chapter 380, laws of 1897, which go into effect, Sept. 1, 1898.

**NOTE.**—In preparing such jury list the several supervisors, trustees, aldermen and county boards shall select such persons only as they know, or have good reason to believe, are possessed of their natural faculties, and are not infirm or decrepit, who are esteemed in their communities as men of good character, approved integrity and sound judgment and who are able to read and write the English language understandingly, and who possess all other qualifications required by this chapter.—Section 2530, chapter 380, laws of 1897, which go into effect Sept. 1, 1898.

List of names to serve as jurors, how made.

SECTION 2533b. Such commissioners shall provide from time to time, as may be necessary, one list of names to be drawn from the body of the county to serve as jurors in each of the courts specified in the preceding section; and in making such lists shall put thereon only the names of such persons as they believe to be possessed of the qualifications prescribed in sections 2524 and 2530. The number of names to be placed on such lists shall be determined by the judges of said several courts from time to time by order filed in the office of the clerk of the circuit court. Such lists shall be furnished by said commissioners to the clerks of the respective courts, who shall write the names thereon on separate slips of paper, each in the same manner as near as may be, and fold each slip so that the name shall not be visible, and deposit said slips in a box, containing but one compartment, in the presence of said commissioners from which they shall be drawn in the following manner, viz.: At least fifteen and not more than thirty days before the sitting of either such court at which a jury is required to attend, the clerk thereof shall, in the presence of said commissioners, proceed to draw the names of thirty-six jurors from said box to serve as petit jurors in said court; such names as they are drawn shall be entered upon a suitable record book to be kept by said clerk, and a list of the names so provided shall be kept by him, and a separate list thereof by at least one of the commissioners. No advertisement of the time and place of drawing need be given, but the clerk shall fix the date of drawing, and give five days' notice thereof to each commissioner. These provisions shall be applicable to any court of exclusive civil jurisdiction in a county containing a population of over one hundred and fifty thousand, which requires a jury, except that if such court shall be held by two judges they may, by an order made and filed by them with the clerk of such court, require that the names of more than

Drawing of jurors in presence of commissioners.

No advertisement necessary.

thirty-six persons be so drawn to serve as petit jurors therein. The names of any persons on said lists who have become disqualified to act as jurors may be supplied in the same manner.

More jurors may be drawn, when.

Section 2533c. Whenever at any term of either such court there shall be a partial or entire absence of jurors of the regular panel, from any cause whatever, the court may direct that the clerk, in his presence, immediately draw from the names so furnished and provided such number of names of persons as may be required to serve as jurors during the term; and whenever there shall be a deficiency of jurors of the regular panel at any time during the term, the court may order a sufficient number to be so drawn to fill the regular panel, or less or a larger number, as the public interest and the condition and character of the business shall require. Whenever the list of names furnished any such court shall have been depleted, the commissioners shall supply other names so that there will be not less than one hundred and fifty nor more than five hundred names in the box at the time any drawing of jurors takes place; such names shall be written on slips of paper which shall be put into the box as hereinbefore provided.

Deficiency in or absence of jurors, how provided for.

SECTION 2533d. Whenever a sufficient number of jurors, so drawn and summoned, cannot be obtained for the trial of any cause the court may cause persons qualified to serve as jurors to be returned from the bystanders or from the county at large for the trial thereof and make the proper and necessary orders therefor; but persons so summoned shall be paid only for service in such cause.

Jurors to be obtained from county at large, when.

Section 2533e. Any juror whose name has been drawn on any regular panel and whom the court has not excused from service, shall be exempt from jury service for one year next ensuing. Any such court may, whenever it shall deem proper and necessary so to do, having regard to the length of the term thereof and an equitable distribution of the duties of jurors,

Juror exempt from service, when.

excuse any panel or number of jurors after a service of two weeks or more, and order another panel or additional jurors to be drawn as hereinbefore provided to complete the business of the term.

Penalty for soliciting place of commissioners.

Section 2533f. It shall be unlawful for any person, either directly or indirectly, to solicit the said commissioners, or either of them to put his name on a jury list, and any person so doing shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days nor more than six months, or by both such fine and imprisonment.

Jurors for courts of record, how drawn.

Section 2544i. Jurors for all courts of record not within section 2533a shall be drawn from a list furnished by the sheriff or other proper officer containing the names of thirty-six persons qualified to serve as jurors in circuit courts; provided, that this section shall not apply to any such court the method of drawing jurors for which is prescribed by any law applicable to it and which it is practicable to follow.

Actions upon insurance policies, all companies liable, may be made defendants.

Section 2609a. In actions upon a policy or policies insuring property against loss or damage by fire, lightning, hail, cyclone or other casualty, the plaintiff may join as parties defendant any or all the insurance companies liable for the loss or any part thereof, and all the issues shall be tried at the same time and by the same jury or by the court, if the action is triable thereby, and the verdict or finding shall fix the amount for which each defendant is liable; or the court may, in its discretion, direct the jury to return successive verdicts, or make separate findings, so that all issues may be determined at the same trial. If the trial is by a jury the court may instruct the jury upon one or more of the issues, and, after verdict thereon, instruct upon other issues until they are all disposed of. If the issues are found in favor of the plaintiff and he is entitled to judgment on the verdict or findings, a separate judgment

shall be rendered against each defendant for the sum for which it is found to be liable, together with the proportion of the costs for which it is liable, which proportion shall bear the same ratio to the whole amount of the costs as the amount of its liability bears to the total sum recovered by the plaintiff from all the defendants, and in addition to such costs its proportion of the necessary disbursements made by the plaintiff, calculated on the same basis.

Section 2656a. A defendant or a person interpleaded or intervening may have affirmative relief against a co-defendant or a co-defendant and the plaintiff, or part of the plaintiffs, or a co-defendant and a person not a party, or against such person alone, upon his being brought in; but in all such cases such relief must involve or in some manner affect the contract, transaction or property which is the subject-matter of the action. Such relief may be demanded in the answer, which must be served upon the party against whom the same is asked, or upon such person not a party, upon his being brought in, or may be by a cross-complaint served in like manner, or by petition in intervention under section 2610, or by answer, served in like manner, when new parties are brought in under sections 2610 and 2611. In all cases the court or judge thereof may make such orders for the service of the pleadings, the bringing in of new parties, the proceedings in the cause, the trial of the issues, and the determination of the rights of the parties as shall be just. The party against whom such relief is demanded may demur to the answer or cross-complaint, as provided in section 2658, or may answer, serving such demurrer or answer on the defendant claiming such relief, as well as upon the plaintiff; or he may object thereto at the trial for insufficiency. If he shall serve no answer or demurrer, and make no such objection, he shall be deemed to have denied the allegations relied on for such relief. Unless such an answer, petition or cross-complaint be so

Relief of defendant or person in interpleadings.

How relief may be demanded.

Demurrer may be served, when.

served, such affirmative relief shall not be adjudged.

Proceedings by certiorari shall stay proceedings when.

Section 3368a. No proceeding by certiorari to such justice shall stay proceedings on a judgment rendered against the defendant in such action, unless the defendant shall, at the time of the service of such writ, execute and file with the justice his undertaking to the plaintiff, with two or more sureties, to be approved by the justice, to the effect that the defendant will pay all costs of such proceedings on certiorari which shall be awarded against him, and abide the order of the court therein, and pay all rent and other damages justly accruing to the plaintiff during the pendency of such proceedings. Upon the issuance of such writ and filing of such undertaking all further proceedings in the case shall be thereby stayed.

Jurisdiction of courts, in disposition of infant's realty.

Section 3519a. The proceedings for the disposition of the estates of infants as provided in the foregoing sections, may be had before the county court or county judge of the county in which the real estate or any part thereof is situated as well as before the circuit court or circuit judge.

Penalty of assault, by persons of depraved mind.

Section 4374a. Any person who shall assault another in a manner evincing a depraved mind, regardless of human life, without any premeditated design to effect the death of the person assaulted, and under such circumstances that if death had resulted the assailant would have been guilty of murder in the second degree, shall be punished by imprisonment in the state prison not more than eight years, nor less than one year.

Amended sections 1210d, e and f, of the annotated statutes to read as follows:

Defects in special assessments, how remedied.

Section 1210d. Where the work of constructing any sewer or grading, graveling, planking, macadamizing, paving or repaving any street or alley, or part thereof, or the curbing of or sodding along any sidewalk or the paving of any gutter in any city has been done or may hereafter be done, and any special assessment has

been or may be made against any property for such work, and such special assessment, or any special assessment certificate, tax sale, tax sale certificate or special improvement bond based thereon, is invalid for failure to make a proper assessment of benefits and damages or to observe any provision of law, or because of any act or defect in the proceeding upon which such assessment, certificate, sale or bond is based, or because of any provision contained in the contract for doing such work not authorized by law, and which may have tended to increase the contract price for doing the work, the city authorities shall proceed to make a new assessment of benefits and damages in the manner required by law in the case of such original assessment. At the time of making such new assessment, in case where the contract under which such work was done contained any provision not authorized by law and which tended to increase the contract price for doing the work, said authorities shall determine the proportion of such contract price justly chargeable against the property in question for such work, and assess the same against such property. The owner of such property may appeal from such new assessment and such determination. The cost of such work in front of such property, to the middle of the street, done pursuant to and at the price fixed in such contract or the proportion thereof determined as aforesaid to be justly chargeable on account of such work, not exceeding the amount of the excess of benefits over damages, as ascertained by such new assessment, is hereby made a lien upon such property, and a certificate to that effect shall be issued by the proper city authorities to the holder of the invalid special assessment certificate or tax sale certificate aforesaid, upon surrender thereof, or proof that it has been cancelled, or to the holder of such special improvement bond, where such bonds have been sold by such city, over such new certificate, if any, shall be paid to such holder out of the

Increase in  
contract price,  
how adjusted.

Owner of  
property may  
appeal.

Excess to be a  
lien.

New certificate  
to be issued.

New certificate to be put in tax roll.

City to pay excess, when.

New assessments of benefits and damages to be made, when.

Contest of new assessment, to be made, when; how settled, finally.

proper fund. The amount of such new certificate shall be carried into the annual tax roll of city taxes, levied against such property, collected as a tax, and paid to the holder of such new certificate in the manner provided by law for the payment of special assessment certificates. In case of appeal from such new assessment or such determination, or both, the proceedings herein mentioned shall take place as if no appeal had been taken; but if the appellant succeed and the amount of such new certificate exceeds the amount finally adjudged on such appeal, the city shall pay such excess with interest thereon from the time the amount of such new certificate is payable to the appellant, after he has paid the amount of such new certificate.

Section 1210e. If in any action to set aside any special assessment against property for any of the purposes mentioned in section 1210d, or to set aside any special assessment certificate, special improvement bond, tax sale or tax sale certificate, based upon such special assessment, the court determine that such assessment is invalid by reason of a defective assessment of benefits and damages, it shall stay all proceedings in such action until a new assessment thereof be had in the manner hereinafter mentioned; thereupon the proper city authorities shall proceed to make a new assessment of benefits and damages against the property of the plaintiff as required by law in the case of such original assessment, and such plaintiff shall have the same right to appeal from such new assessment as he or his grantors would have had from such original assessment. If the plaintiff desire to contest the validity of such new assessment, he shall within ten days after its confirmation by the common council, file with the clerk of the court, and serve upon the defendant's attorney, his objections to such new assessment; and thereupon the court shall direct an issue to be made involving the objections aforesaid, try the same sun-



marily and file an order sustaining or overruling the objections of the plaintiff. If by such order such new assessment be held invalid, subsequent assessments may be made in like manner, and proceedings resorted to to determine the validity of such assessment. When the amount to be assessed against the plaintiff's property has been finally determined by an assessment of benefits and damages which the court shall hold to be valid, or, when an appeal is taken, the court shall make an order requiring the plaintiff to pay into court, within a time to be fixed by such order, for the benefit of the parties entitled thereto, the amount which, based upon such valid new assessment he ought justly to pay, or which should be justly assessed against the property in question; upon compliance with said order, judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

Section 1210f. If in any action to set aside any special assessment certificate, special improvement bond, tax sale or tax sale certificate based upon an assessment for any of the purposes mentioned in section 1210d, upon grounds other than those affecting the validity of the assessment of benefits and damages, the court shall determine that the same is void by reason of any failure to observe any provision of law, or by reason of any act or defect in the proceedings upon which the same is based, it shall immediately stay all proceedings in the action, frame an issue therein and summarily try the same and determine the amount which the plaintiff justly ought to pay or which should be justly assessed against the property in question. Such amount shall be ordered to be paid into court for the benefit of the parties entitled thereto within a time to be fixed. Upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fail to comply with such order, the ac-

Duty of court in case any special assessment, etc., is declared void, by reason of failure to observe any provision of law.

tion shall be dismissed with costs. In case a new assessment is made the same proceedings may be had thereon as provided by law.

## CHAPTER 30 b.

### OF THE HOME FOR THE FEEBLE MINDED.

Examination of person, necessary for admittance to home.

Jurisdiction of courts.

Expense to counties for persons committed to home.

Section 5731. All such persons as are described in the preceding section may be admitted to said home after such examination into their condition as is required to be made to determine the conditions of persons who are alleged to be insane and for whom admission is sought to the state hospitals or county asylums for the insane. All the provisions of law relating to the examination and commitment of such alleged insane persons shall, so far as applicable, apply to persons whom it is sought to have committed to the home for the feeble-minded; and all the powers conferred upon the judges of the several courts as to such alleged insane persons, and all the duties devolved upon such judges in relation to their examination and commitment, shall be exercised in the examination and commitment of persons to said home, so far as such powers and duties are applicable. All persons resident of this state, who may be committed to said home for the feeble-minded, shall be maintained therein at the expense of the state; but the county in which any such person last resided before being brought to the home shall pay one dollar and fifty cents per week for his or her support and thirty dollars per year for the clothing to be supplied such person. The relatives, friends or guardians of any person committed thereto may pay for his maintenance and clothing or any part thereof; and the accounts of such persons shall be credited with any sum so paid. This charge shall also be made for the maintenance of any persons transferred by the board of control to said home.

Said board shall adopt and publish a schedule of maximum charges for the care of such persons who shall not be entitled to be kept therein free of charge.

Publication of maximum rates.

Section 573m. On the first day of October in each year the superintendent shall send notices to the county clerks of the number of inmates in the home from their respective counties, and for whose support such counties are liable, and on or before said day he shall certify to the secretary of state the amount not previously certified by him due the home from the several counties, separately, according to the provisions of this chapter, and the secretary of state shall pass the same to the credit of the home for the feeble-minded, and shall thereupon notify the county clerk of each county so indebted of the amount thereof and charge the same to said county and add the same to the next state tax to be apportioned to said county and be collected herewith. He shall also certify to the state board of control the several amounts thus credited to the home.

Superintendent to send notices to county clerk of indebtedness of counties.

Section 573n. The clothing to be furnished to a person before being sent to the home for the feeble minded shall not be less than the following: One overcoat, cloak or cape, one hat or cap, two suits of clothes or two dresses, three handkerchiefs, three complete suits of under-clothing suitable for the season when admitted, including skirts for females and all other necessary garments; four pairs of socks or stockings; one good pair of shoes. All these articles to be of good quality and in good condition. Unless such clothing be delivered in good order, the superintendent shall not be bound to receive the person thus committed, but he may receive and furnish him with the proper clothing, charging the price thereof to the proper county, which shall not be included in the thirty dollars per year, specified in section 573l.

Clothing to be furnished inmates.

Section 573q. It shall be the duty of the superintendent, whenever any properly committed inmate of said home shall die, to cause

Post-mortem examination to be made, when.

an examination to be made upon the brain of such inmate if in his judgment such post-mortem examination may prove of benefit to scientific research and investigation. Such examination to be made in the institution and by the physician in charge.

Superintendent to discharge inmates with board's approval. Epileptics.

Section 573r. The superintendent of the home, with the approval of the board of control, shall have power to discharge inmates, but no epileptic inmate shall at any time thereafter be sent or returned to any poorhouse. In case any person not an epileptic shall be sent to the home through mistake in the diagnosis of his disease, or from any other cause, to be determined by the board of control acting as a commission in lunacy, and received there, such person shall be returned to, and the traveling expenses of such return shall be paid by the county from which such inmate was sent to the home. Should an epileptic become insane, he shall be sent to the state hospital for the insane in the district of which he was a resident just prior to his admission to the home, in the manner prescribed by law. The bill for the reasonable expenses incurred in the transportation of the epileptic to and from the state hospital shall be paid by the county of which such person was a resident at the time of his admission to the home.

Duties of supervisors relative to epileptics, and feeble minded females.

Section 573s. Whenever it shall appear that any feeble-minded, epileptic or idiotic person is dangerous to be at large because of his or her vicious and demoralizing acts or tendencies, or whenever it shall appear that any feeble-minded female of child-bearing age, is by reason of her condition a menace to society, it shall be the duty of any supervisor of the town, city, village or ward in which such person may reside, to take measures to have such person brought before the county judge, pursuant to law.

Chapter 288 of the laws of 1897 is hereby amended by striking out all of section three of

said chapter and inserting in lieu thereof the following:

“Section 3. For the purpose of carrying into effect the provisions of this act, the common council of such city is hereby authorized during the year 1897, to issue corporate bonds not to exceed the amount of one hundred and twenty thousand dollars, payable in lawful money of the United States within twenty years from date of their issue, bearing interest, payable semi-annually, at the rate of not exceeding six per cent. per annum, for the purpose of paying for said lands and the erection thereon of a crematory or other garbage reducing or rendering establishment, or both, which said bonds shall be either registered or coupon bonds as the said common council shall direct. No bonds shall be issued under the provisions of this act, and no contract shall be entered into or obligation incurred by any such city in contemplation of the issue of such bonds in the future, unless such contract or obligation, and the issue of such bonds for the payment of the same, shall have been authorized by ordinance, adopted by a vote in favor of the same of majority of all the members of the common council elect, and vote to be at a regular meeting of such common council, not less than one week after the proposed ordinance shall have been published in the official paper of such city; and provided, that no such bonds shall be issued so that the amount thereof, together with all the other indebtedness of such city shall exceed five per cent. of the assessed valuation of such city at the last assessment for state and county taxes previous to the incurring of such indebtedness.

Bonds issued under the authority of this act shall be executed and disposed of in the manner provided by the charter of the city issuing the same, or if no provision for the execution thereof is contained in the charter of such city, then in the manner which may be prescribed by ordinance or resolution of the common council

Issuing of bonds to provide for garbage reducing plants in cities of first class.

Majority vote of council necessary.

Bonds to be disposed of in manner provided by charter.

thereof. In all cases, however, all such bonds shall bear an appropriate name, indicating the purpose of their issue, and shall be consecutively numbered, and shall have interest coupons attached, and shall show on their face the amount of indebtedness of the city issuing the same, the annual amount of assessment of the taxable property therein for the five years next preceding the issue, and the average amount thereof, and shall not be sold for less than par value and accrued interest.

Council empowered to purchase real and personal property for purpose stated above.

The common council of any city included in this act is hereby empowered to provide for the acquisition of the real and personal property, and for the construction of the buildings and works mentioned in the first section of this act, and to determine the amount of the appropriation necessary therefor, and for the purpose of entering into any contract or contracts for such acquisition or construction, the amount of bonds issued or to be issued for that purpose shall be treated as cash on hand; but no such power shall be exercised, or contract entered with or obligation incurred by the common council of any such city except by ordinance adopted as herein provided.

Council to levy tax to liquidate bonds and interest.

The common council of any city, having issued bonds authorized by this act, shall annually levy a tax upon all the taxable property within such city, sufficient to pay the annual interest thereon, and to provide a sinking fund each year equal to five per cent. on the principal of said bonds for the payment of said bonds."

Section 5. This act shall take effect and be in force from and after its passage and publication.

Approved Aug. 20, 1897.